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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 ELISSA M. ROBERTS, Individually and on
11 Behalf of All Others Similarly Situated,

12 Plaintiff,

13 v.

14 BLOOM ENERGY CORPORATION, KR
SRIDHAR, RANDY FURR, L. JOHN
DOERR, SCOTT SANDELL, EDDY
15 ZERVIGON, PETER TETI, MARY K. BUSH,
KELLY A. AYOTTE, J.P. MORGAN
16 SECURITIES LLC, MORGAN STANLEY &
CO. LLC, CREDIT SUISSE SECURITIES
17 (USA) LLC, KEYBANC CAPITAL
MARKETS INC., MERRILL LYNCH,
18 PIERCE, FENNER & SMITH IN
CORPORATED, ROBERT W. BAIRD & CO.,
19 INCORPORATED, COWEN AND
COMPANY, LLC, HSBC SECURITIES (USA)
20 INC., OPPENHEIMER & CO. INC.,
21 RAYMOND JAMES & ASSOCIATES, INC.,
22 and PRICEWATERHOUSECOOPERS LLP,

23 Defendants.

Case No. 4:19-cv-02935-HSG

**PLAINTIFFS' NOTICE OF UNOPPOSED
MOTION FOR FINAL APPROVAL OF
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT
THEREOF**

Honorable Haywood S. Gilliam, Jr.
Hearing Date: May 2, 2024
Hearing Time: 2:00 p.m.
Place: Courtroom 2, 4th Floor

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**NOTICE OF UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF SETTLEMENT**

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 2, 2024 at 2:00 p.m. pacific time, in the United States District Court, Northern District of California, Oakland Courthouse, Courtroom 2, 4th floor, Oakland California, the Honorable Haywood S. Gilliam, Jr. presiding, the Court-appointed Lead Plaintiff James Everett Hunt (“Lead Plaintiff”) and additional plaintiffs Juan Rodriguez, Kurt Voutaz, Joel White, Andrew Austin, and Ryan Fishman (together with Lead Plaintiff, “Plaintiffs”) will and hereby do move for an Order pursuant to Federal Rule of Civil Procedure 23 for entry of the [Proposed] Final Judgment Approving Class Action Settlement, as well as Final Judgment pursuant to Rule 54(b) against non-settling Defendant PricewaterhouseCoopers LLP (“PwC”), each of which are submitted herewith.¹

As set forth in the memorandum of points and authorities, in accordance with Federal Rule of Civil Procedure 23(e), the terms of the proposed Settlement are fair, reasonable, and adequate, notice of the proposed Settlement has been disseminated in accordance with the Preliminary Approval Order, and there have been no objection to the Settlement to date. Accordingly, Plaintiffs request the Court grant final approval of the proposed Settlement of this Action and the proposed Plan of Allocation.

This motion is based upon this Notice of Motion and Motion (together, the “Motion”); the supporting Memorandum that follows; the Stipulation and exhibits thereto; the Declaration of Nicholas I. Porritt (“Porritt Decl.”) dated February 1, 2024; the Declaration of Susanna Webb (of proposed claims administrator Epiq Class Action and Claims Solutions, Inc.) (“Webb Decl.”), dated January 31, 2024; the declaration of lead plaintiff James Hunt dated January 29, 2024; the pleadings

¹ Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement dated June 30, 2023 (ECF No. 237-3), or the concurrently filed Declaration of Nicholas I. Porritt in Support of (I) Lead Plaintiff’s Motion for Final Approval of Class Action Settlement and Plan of Allocation, and (II) Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (“Porritt Declaration”).

1 and records on file in the Action; and all such other matters as the Court may consider in evaluating
2 the Motion.²

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² Defendants take no position with respect to this motion.

STATEMENT OF ISSUES TO BE DECIDED

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2 1. Whether the Court should approve the proposed \$3,000,000 million all cash, non-
3 reversionary settlement as fair, reasonable, and adequate under Rule 23(e).

4 2. Whether the Court should approve the Plan of Allocation as fair and reasonable.

5 3. Whether the Court should finally certify the Action as a class action pursuant to Rules
6 23(a) and (b)(3) for settlement purposes only.

7 4. Whether Final Judgment should be entered by the Court in the form attached hereto.
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TABLE OF CONTENTS

1

2

3 I. PRELIMINARY STATEMENT..... 1

4 II. THE LITIGATION AND SETTLEMENT..... 2

5 A. Procedural Background..... 2

6 B. Mediation Efforts and Settlement Negotiations 5

7 III. STANDARDS FOR FINAL APPROVAL UNDER RULE 23€ AND *HANLON*..... 5

8 IV. ARGUMENT 7

9 A. The Settlement Is Fair, Reasonable, And Adequate In Light Of The Factors Outlined By
Rule 23(e)(2) And The Remaining *Hanlon* Factors..... 7

10 1. Plaintiffs and Lead Counsel Adequately Represented the Settlement Class 7

11 2. The Settlement Is The Result Of Arm’s-Length Negotiations..... 8

12 3. The Settlement Is An Excellent Result For the Settlement Class In Light of The Benefits
of The Settlement And The Risks of Continued Litigation 9

13 4. The Rule 23(e)(2)(C)(ii)-(iv) Factors Support Final Approval..... 12

14 5. The Settlement Treats All Settlement Class Members Equitably Relative To Each Other
13

15 6. The Positive Reaction Of The Settlement Class Supports Settlement Approval 14

16 7. The Remaining *Hanlon* Factors Are Neutral Or Weigh In Favor Of Final Approval 14

17 B. The Plan Of Allocation Is Fair And Reasonable..... 17

18 C. The Settlement Class should Be Finally Certified 19

19 D. The Notice Program Satisfies Rule 23 and Due Process 19

20 E. The Court Should Also Enter Separate Judgment Against Non-Settling Defendant PwC. 19

21

22 V. CONCLUSION 20

23

24

25

26

27

28

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Christine Asia Co. v. Yun Ma,
2019 WL 5257534 (S.D.N.Y. Oct. 16, 2019) 13

Churchill Vill., L.L.C. v. Gen. Elec.,
361 F.3d 566 (9th Cir. 2004)..... 9

City of Detroit v. Grinnell Corp.,
495 F.2d 448 (2nd Cir. 1974)..... 15

Garner v. State Farm Mut. Auto. Ins. Co.,
2010 WL 1687832 (N.D. Cal. Apr. 22, 2010) 6

Hanlon v. Chrysler Corp.,
150 F.3d 1011 (9th Cir. 1998)..... 1, 7, 9, 17

Hefler v. Wells Fargo & Co.,
2018 WL 6619983 (N.D. Cal. 2018)..... 6, 12, 15

In re Advanced Battery Techs., Inc. Sec. Litig.,
298 F.R.D. 171 (S.D.N.Y. 2014)..... 11

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2014 WL 10212865 (C.D. Cal. July 28, 2014) 12

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1991 WL 238298 (N.D. Cal. Sept. 6, 1991)..... 11

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654 F.3d 935 (9th Cir. 2011)..... 9

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852 F. Supp. 2d 767 (S.D. Tex. 2012) 11

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2016 WL 4474366 (N.D. Cal. Aug. 25, 2016)..... 13

In re Extreme Networks, Inc. Sec. Litig.,
2019 WL 3290770 (N.D. Cal. July 22, 2019)..... 7

In re Heritage Bond Litig.,
2005 WL 1594403 (C.D. Cal. June 10, 2005)..... 16, 19

In re Immune Response Sec. Litig.,
497 F. Supp. 2d 1166 (S.D. Cal. 2007) 11

In re Mego Fin. Corp. Sec. Litig.,
213 F.3d 463 (9th Cir. 2000)..... 13, 15, 16

1 *In re Netflix Privacy Litig.*,
2013 WL 1120801 (N.D. Cal. Mar. 18, 2013) 8

2 *In re Omnivision Techs., Inc.*,
3 559 F. Supp. 2d 1036 (N.D. Cal. 2008) 5, 12, 14, 17

4 *In re Polaroid ERISA Litig.*,
240 F.R.D. 65 (S.D.N.Y. 2006)..... 7

5 *In re Syncor ERISA Litig.*,
6 516 F.3d 1095 (9th Cir. 2008)..... 5

7 *In re Tyco Int’l, Ltd.*,
8 535 F. Supp. 2d 249 (D.N.H. 2007) 10

9 *In re Wireless Facilities, Inc. Sec. Litig. II*,
10 253 F.R.D. 607 (S.D. Cal. 2008)..... 10

11 *In re Xcel Energy, Inc., Sec., Deriv. & “ERISA” Litig.*,
12 364 F. Supp. 2d 980 (D. Minn. 2005) 11

13 *In re: Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prod. Liab. Litig.*,
14 2016 WL 6248426 (N.D. Cal. Oct. 25, 2016)..... 16

15 *Knapp v. Art.com, Inc.*,
16 283 F. Supp. 3d 823 (N.D. Cal. 2017) 9

17 *Maley v. Del Global Tech. Corp.*,
18 186 F. Supp. 2d 358 (S.D.N.Y. 2002)..... 17

19 *Mild v. PPG Indus., Inc.*,
20 2019 WL 3345714 (C.D. Cal. July 25, 2019) 7

21 *Perks v. Activehours, Inc.*,
22 2021 WL 1146038 (N.D. Cal. Mar. 25, 2021) 7

23 *Robbins v. Koger Props., Inc.*,
24 116 F.3d 1441 (11th Cir. 1997)..... 11

25 *Rodriguez v. W. Publ’g Corp.*,
26 563 F.3d 948 (9th Cir. 2009)..... 8

27 *Schueneman v. Arena Pharmaceuticals, Inc.*,
2020 WL 3129566 (S.D. Cal. June 12, 2020)..... 17

28 *Shapiro v. JPMorgan Chase & Co.*,
2014 WL 1224666 (S.D.N.Y. Mar. 24, 2014) 15

Tan Chao v. William,
2020 WL 763277 (2d Cir. Jan. 2, 2020)..... 13

Thomas v. MagnaChip Semiconductor Corp.,
2017 WL 4750628 (N.D. Cal. Oct. 20, 2017)..... 13

1 *Vaccaro v. New Source Energy Partners L.P.*,
 2017 WL 6398636 (S.D.N.Y. Dec. 14, 2017)..... 16

2 *Van Bronkhorst v. Safeco Corp.*,
 529 F.2d 943 (9th Cir. 1976)..... 5

3

4 *Vikram v. First Student Management, LLC*,
 2019 WL 1084169 (N.D. Cal. March 7, 2019) 15

5 *Vinh Nguyen v. Radient Pharm. Corp.*,
 2014 WL 1802293 (C.D. Cal. May 6, 2014)..... 14

6

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 2021 WL 1531171 (N.D. Cal. Apr. 19, 2021) 6, 9

8 *Yang v. Focus Media Holding Ltd.*,
 2014 WL 4401280 (S.D.N.Y. Sept. 4, 2014) 14

9

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11 **Rules**

12 Fed. R. Civ. P. 23(b)..... 19

13 Fed. R. Civ. P. 23(c)..... 19

14 Fed. R. Civ. P. 23(e)..... passim

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. PRELIMINARY STATEMENT**

3 The Parties have reached a proposed Settlement of this Action that resolves all claims against
4 Defendants Bloom Energy Corporation (“Bloom”), KR Sridhar, Randy Furr, L. John Doerr, Scott
5 Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, Kelly A. Ayotte, J.P. Morgan Securities LLC,
6 Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc.,
7 Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities
8 (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co.
9 Incorporated (collectively, the “Settling Defendants”) in exchange for a cash payment of \$3,000,000
10 (the “Settlement Amount”). Porritt Decl. ¶¶ 8-9. The terms of the Settlement are set forth in the
11 Stipulation (ECF No. 237-3), which was preliminarily approved by the Court on October 31, 2023.
12 *Id.*, at ¶28.

13 The \$3,000,000 Settlement is procedurally fair, as it is the product of arm’s-length negotiations
14 helped facilitated by the with experienced Phillips ADR mediator Michelle Yoshida and was only
15 achieved after years of hard-fought litigation against skilled defense counsel. The Settlement is also
16 substantively fair, reasonable, and adequate, as demonstrated by application of Rule 23 of the Federal
17 Rules of Civil Procedure and the Ninth Circuit “*Hanlon* factors” for assessing class action settlements.
18 *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998).

19 Prior to reaching the Settlement, Lead Counsel developed a thorough understanding of both
20 the strengths and the weaknesses underlying the claims in this Action, and meaningfully assessed the
21 risks of establishing liability and damages. Porritt Decl. ¶14. Indeed, as described in greater detail in
22 the Porritt Declaration, before agreeing to the Settlement, Lead Counsel, among other things:
23 (i) conducted comprehensive investigations prior to the filing two amended complaints (the operative
24 pleading being the Corrected Second Amended Complaint (ECF No. 237-10)); (ii) fully briefed the
25 Defendants’ three motion(s) to dismiss the amended complaint; (iii) reviewed over 13,200 documents
26 totaling 171,500 pages; (iv) briefed requests for interlocutory appeal; (v) briefed the motion for class
27 certification; (vi) defended the deposition of the lead plaintiff; (vii) briefed and participated in
28 extensive mediation; and (viii) negotiated the Settlement. Porritt Decl. ¶¶26-27. While the mediation

1 efforts were initially unsuccessful, the Parties continued to negotiate in good faith and came to an
2 agreement in principle in January 2023. *Id.*, at ¶27.

3 Based on this substantial work and Lead Counsel’s experience, Plaintiffs and Lead Counsel
4 believe that the Settlement—which eliminates the significant costs and risks of continuing litigation
5 and instead provides a fair and immediate cash recovery—is in the best interests of the Settlement
6 Class. Porritt Decl. ¶14; *see* Hunt Decl.

7 While the deadline to file an objection has not yet passed, the reaction of the Settlement Class
8 also supports final approval. Approximately 67,333 copies of the Postcard Notice have been sent to
9 potential Settlement Class Members and their nominees, and, to date, no objections or requests for
10 exclusion have been received or entered on the docket. Webb Decl., ¶¶ 10, 17-18.

11 Finally, the Plan of Allocation reflects an assessment of the damages that Plaintiffs contends
12 could have been recovered under the theories of liability and damages asserted in the Action. Porritt
13 Decl. ¶¶ 46-51. The Plan of Allocation ties each participating Settlement Class Member’s recovery to
14 when the securities were acquired and sold and is a fair and reasonable method for distributing the Net
15 Settlement Fund. *Id.*, at ¶¶ 52-54. The Plan of Allocation thus warrants approval.

16 For these reasons, as well as those set forth below and in the Porritt Declaration, Plaintiffs
17 respectfully request that the Court grant final approval of the Settlement and Plan of Allocation, grant
18 final certification of the Settlement Class for settlement purposes, and enter Final Judgment resolving
19 the claims asserted against the Settling Defendants.

20 **II. THE LITIGATION AND SETTLEMENT³**

21 **A. Procedural Background**

22 Bloom traded on the NASDAQ under the ticker symbol “BE” during the Class Period. On May
23 28, 2019, a class action complaint was filed in the United States District Court for the Northern District
24 of California. *Id.*, at ¶17. On September 3, 2019, the Court issued an Order (1) appointing James

25 ³ The Porritt Declaration submitted in connection with Plaintiffs’ motion for final approval is an
26 integral part of this submission. For the sake of brevity in this memorandum, the Court is referred to
27 it for a detailed description of, *inter alia*, the factual and procedural history of the Action (¶¶17-28);
28 the nature of the claims asserted (¶¶19-24); the motions to dismiss and appeal attempts (¶25);
discovery, class certification, and settlement negotiations (¶¶26-28); and the risks and uncertainties of
continued litigation (¶¶29-36).

1 Evertt Hunt as the Lead Plaintiff for the Action; and (2) approving Plaintiffs' selection of Levi &
2 Korsinsky, LLP as Lead Counsel for the proposed plaintiff class. *Id.*, at ¶18.

3 Following Lead Counsel's appointment, counsel conducted a comprehensive investigation into
4 Defendants' allegedly wrongful acts, which included, among other things: (i) a detailed review of
5 Bloom's SEC filings, press releases, conference calls, news reports, blog postings, and other public
6 statements made by Defendants prior to, during, and after the Settlement Class Period; (ii) public
7 documents, reports, announcements, and news articles concerning Bloom; (iii) research reports by
8 securities and financial analysts; (iv) economic analyses of stock price movement and pricing data; (v)
9 through a private investigator, conducting numerous fact interviews with former employees and other
10 third parties; and (vi) review and analysis of other publicly available material and data. *Id.*, at ¶19.
11 As part of this investigation, Lead Counsel also consulted with an expert in the field of damages. *Id.*

12 In preparation for filing the amended complaint, Lead Plaintiff continued to investigate
13 Bloom's operations, including talking with Dwight Badger, the co-founder of Advanced Equities, a
14 now-defunct brokerage firm that raised over \$200 million for Bloom almost ten years before the
15 company's initial public offering in July 2018. Lead Plaintiff believed that Mr. Badger possessed
16 relevant information that "would be materially beneficial for the purposes of establishing liability."
17 *Id.*, at ¶20. However, Mr. Badger believed he was unable to assist Lead Plaintiff due to the
18 confidentiality provision in a 2014 Settlement Agreement between Bloom and Mr. Badger. *Id.*

19 On November 4, 2019, Plaintiffs filed and served the First Amended Complaint against Bloom
20 Energy and certain officers and directors. *Id.*, at ¶22. While the First Amended Complaint was
21 pending, Bloom Energy filed its Form 10-K for 2020 which restated certain financials. Lead Counsel
22 conducted an additional extensive factual investigation, which included: (a) a detailed review of (i)
23 Bloom Energy's SEC filings, press releases, conference calls, news reports, blog postings, and other
24 public statements made by Defendants prior to, during, and after the Settlement Class Period; (ii)
25 public documents, reports, announcements, and news articles concerning Bloom Energy; (iii) research
26 reports by securities and financial analysts; and (iv) economic analyses of stock price movement and
27 pricing data; (b) through a private investigator, conducting numerous fact interviews with former
28 employees and other third parties; (c) a review and analysis of other publicly available material and

1 data; and (d) consulting with experts in the field of damages and accounting. *Id.*, at ¶23.

2 On April 21, 2020, Lead Plaintiff Hunt and additional plaintiffs Juan Rodriguez, Kurt Voutaz,
3 Scott Kline, Joel White, Andrew Austin, and Ryan Fishman filed the Second Amended Complaint
4 against Bloom, KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, General Colin
5 L. Powell, Peter Teti, Mary K. Bush, Kelly A. Ayotte, the Underwriter Defendants, and adding PwC
6 as an additional defendant. *Id.*, at ¶24. Specifically, the Second Amended Complaint alleges that the
7 Registration Statement for its initial public offering, Bloom i) improperly accounted for loss
8 contingencies relating to its Energy Servers; ii) improperly accounted for revenue; iii) failed to review
9 weaknesses in its internal controls; iv) misrepresented the life cycle of its fuel cells; v) misled investors
10 as to construction delays affecting its business; and vi) misrepresented the efficiency and pollution
11 output of its Energy Servers. *Id.* Plaintiffs further alleged that PwC, as Bloom’s Auditor, is liable under
12 Section 11 for alleged misrepresentations in the audited financial statements in Bloom’s Registration
13 Statement. *Id.* Hagens Beman Sobol Shapiro LLP was also added as additional counsel. *Id.*

14 On July 1, 2020, three separate motions to dismiss the Second Amended Complaint were filed
15 by Bloom, the Individual Defendants, the Underwriter Defendants, and PwC. *Id.*, at ¶25. On September
16 29, 2021, the Court granted in part and denied in part the motions to dismiss. ECF No. 157. The Court:
17 (1) granted the motion to dismiss the 10(b) claims; (2) granted PwC’s motion to dismiss all the claims
18 against it; and (3) granted in part and denied in part the other defendants’ motion to dismiss claims
19 under Section 11. *Id.* Specifically, the Court granted in part the Section 11 Defendants’ motion to
20 dismiss based on accounting errors, fuel cell life, emissions, and internal controls, but denied the
21 motion to dismiss the Second Amended Complaint based on Bloom’s statements in Bloom’s
22 Registration Statement about their Energy Servers’ efficiency and construction delays. *Id.* The Court
23 dismissed the accounting allegations against all the defendants—which resulted in PwC being entirely
24 dismissed from the action. *Id.* Accordingly, the sole remaining misrepresentations as to the remaining
25 defendants relate to (a) a risk disclosure concerning construction delays, and (b) a statement that
26 Bloom’s latest-generation Energy Servers were capable of beginning-of-life efficiency of 65%. *Id.*
27 Plaintiffs twice sought an immediate appeal, first moving for entry of judgment under Rule 54(b) and
28 then moving for interlocutory appeal under U.S.C. § 1292(b). The Court denied both motions. *Id.*

1 Plaintiffs accordingly litigated the narrowed case that remained. Plaintiffs served written
2 discovery on Defendants and 49 non-party subpoenas on Bloom’s customers. *Id.*, at ¶26. Plaintiffs
3 received and reviewed over 13,200 documents totaling 171,500 pages. *Id.* Between March and June
4 2022, the parties conducted depositions and briefed class certification, and the Court heard argument
5 on June 30, 2022. *Id.* The Court has not ruled on the motion, which has been terminated as moot subject
6 to final approval of the Settlement on March 16, 2023. *Id.*

7 **B. Mediation Efforts and Settlement Negotiations**

8 In conjunction with Plaintiffs’ discovery efforts, the Settling Parties began discussing
9 mediation in August 2022, and ultimately agreed to mediate with Phillips ADR mediator Michelle
10 Yoshida. The parties agreed to targeted discovery to assess the strengths and weaknesses of the
11 remaining claims in connection with a possible mediation. *Id.*, at ¶27. The parties exchanged two
12 rounds of mediation briefs supported by evidence obtained in discovery. *Id.* On December 20, 2022,
13 the Settling Parties attended a full-day virtual mediation. *Id.* The Settling Parties did not reach a
14 settlement during the mediation but continued to engage in post-mediation discussions with Ms.
15 Yoshida. *Id.* On January 4, 2023, Ms. Yoshida made a mediator’s proposal, which the Settling Parties
16 accepted. *Id.* On January 11, 2023, the Court stayed all discovery and case deadlines considering the
17 pending Settlement. *Id.* The Settling Parties subsequently negotiated a term sheet and stipulation of
18 settlement. *Id.*

19 **III. STANDARDS FOR FINAL APPROVAL UNDER RULE 23€ AND HANDLON.**

20 Federal Rule of Civil Procedure 23(e) requires judicial approval for any compromise or
21 settlement of class action claims and states that a class action settlement should be approved if the
22 court finds it “fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). In the Ninth Circuit and
23 throughout the country, “there is a strong judicial policy that favors settlements particularly where
24 complex class action litigation is concerned.” *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th
25 Cir. 2008); *see also Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976) (“[T]here is an
26 overriding public interest in settling and quieting litigation,” and this is “particularly true in class action
27 suits.”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1041 (N.D. Cal. 2008) (“[T]he court
28 must also be mindful of the Ninth Circuit’s policy favoring settlement, particularly in class action law

1 suits.”). Class actions readily lend themselves to compromise because of the difficulties of proof, the
 2 uncertainties of the outcome, and the typical length of litigation. The settlement of complex cases also
 3 contributes to the conservation of scarce judicial resources. *See, e.g., Garner v. State Farm Mut. Auto.*
 4 *Ins. Co.*, 2010 WL 1687832, at *10 (N.D. Cal. Apr. 22, 2010) (“Avoiding such unnecessary and
 5 unwarranted expenditure of resources and time would benefit all Parties and the Court.”).

6 Rule 23(e)(2)—which governs final approval—requires courts to consider several factors in
 7 determining whether a proposed settlement is fair, reasonable, and adequate, including whether:

- 8 (A) the class representatives and class counsel have adequately represented the class;
- 9 (B) the proposal was negotiated at arm’s length;
- 10 (C) the relief provided for the class is adequate, taking into account:
 - 11 (i) the costs, risks, and delay of trial and appeal;
 - 12 (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
 - 13 (iii) the terms of any proposed award of attorneys’ fees, including timing of payment; and
 - 14 (iv) any agreement required to be identified under Rule 23(e)(3); and
- 15 (D) the proposal treats class members equitably relative to each other.

16 Fed. R. Civ. P. 23(e)(2).
 17

18 These factors do not “displace” any previously adopted factors, but “focus the court and the
 19 lawyers on the core concerns of procedure and substance that should guide the decision whether to
 20 approve the proposal.” Fed. R. Civ. P. 23(e) advisory committee notes to 2018 amendment, 324 F.R.D.
 21 904, 918. “Accordingly, the Court [should] appl[y] the framework set forth in Rule 23, while
 22 continuing to draw guidance from the Ninth Circuit’s factors and relevant precedent.” *Hefler v. Wells*
 23 *Fargo & Co.*, 2018 WL 6619983, at *4 (N.D. Cal. 2018).
 24

25 “In the Ninth Circuit, courts traditionally use a multi-factor balancing test to analyze whether
 26 a given settlement is fair, adequate and reasonable.” *Wong v. Arlo Technologies, Inc.*, 2021 WL
 27 1531171, at *5 (N.D. Cal. Apr. 19, 2021). “That test includes the following factors:
 28

1 [1] the strength of plaintiff’s case; [2] the risk, expense, complexity, and likely duration
2 of further litigation; [3] the risk of maintaining class action status throughout the trial;
3 [4] the amount offered in settlement; [5] the extent of discovery completed, and the
4 stage of the proceedings; [6] the experience and views of counsel; [7] the presence of a
5 governmental participant; and [8] the reaction of the class members to the proposed
6 settlement.”

7 *Id.* (quoting *Hanlon*, 150 F.3d at 1026); *see also In re Extreme Networks, Inc. Sec. Litig.*, 2019 WL
8 3290770, at *6 (N.D. Cal. July 22, 2019) (evaluating settlement based on factors set forth in Fed. R.
9 Civ. P. 23(e)(2) and *Hanlon*); *Perks v. Activehours, Inc.*, 2021 WL 1146038, at *4 (N.D. Cal. Mar. 25,
10 2021) (same).

11 As explained below and in the Porritt Declaration, application of each of the four factors
12 specified in Rule 23(e)(2) and the relevant, non-duplicative *Hanlon* factors demonstrates that the
13 Settlement warrants Court approval.

14 **IV. ARGUMENT**

15 **A. The Settlement Is Fair, Reasonable, And Adequate In Light Of The Factors**
16 **Outlined By Rule 23(e)(2) And The Remaining *Hanlon* Factors**

17 **1. Plaintiffs and Lead Counsel Adequately Represented the Settlement Class**

18 Fed. R. Civ. P. 23(e)(2)(A) requires the Court to consider whether the “class representatives
19 and class counsel have adequately represented the class.” “Resolution of two questions determines
20 legal adequacy: (1) do the named plaintiffs and their counsel have any conflicts of interest with other
21 class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on
22 behalf of the class?” *Hanlon*, 150 F.3d at 1020.

23 Here, Plaintiffs and Lead Counsel adequately represented the Settlement Class both during the
24 litigation of this Action and its settlement. Plaintiffs’ claims are typical of and coextensive with the
25 claims of the Settlement Class, and they have no antagonistic interests; rather, Plaintiffs’ interest in
26 obtaining the largest possible recovery in this Action is aligned with the other Settlement Class
27 Members. *Mild v. PPG Indus., Inc.*, 2019 WL 3345714, at *3 (C.D. Cal. July 25, 2019) (“Because
28 Plaintiff’s claims are typical of and coextensive with the claims of the Settlement Class, his interest in
obtaining the largest possible recovery is aligned with the interests of the rest of the Settlement Class
members.”); *In re Polaroid ERISA Litig.*, 240 F.R.D. 65, 77 (S.D.N.Y. 2006) (“Where plaintiffs and

1 class members share the common goal of maximizing recovery, there is no conflict of interest between
2 the class representatives and other class members”).

3 Plaintiffs also retained counsel who are highly experienced in securities litigation, and who
4 have a long and successful track record of representing investors in such cases. Lead Counsel, Levi &
5 Korsinsky, has successfully prosecuted securities class actions and complex litigation in federal and
6 state courts throughout the country. Moreover, in this case, Lead Counsel vigorously prosecuted the
7 Settlement Class’s claims throughout the litigation by, among other things, conducting two extensive
8 investigation of the claims through a detailed review of all publicly available documents as well as
9 numerous interviews with former employees and third parties, drafting two amended complaints,
10 litigating three motions to dismiss, engaging in discovery, drafting and arguing a motion for class
11 certification, participating in a hard-fought arm’s-length mediation, and obtaining a \$3,000,000
12 Settlement for the benefit of the Settlement Class following a dismissal order. Porritt Decl. ¶¶ 24-29.

13 Accordingly, as the Court previously found in conditionally certifying the Settlement Class and
14 appointing Plaintiffs as Class Representative and Levi & Korsinsky as Class Counsel, Plaintiffs and
15 Class Counsel have adequately represented the Settlement Class. *See* Preliminary Approval Order
16 ECF No. 245. This factor supports final approval of the Settlement.

17 **2. The Settlement Is The Result Of Arm’s-Length Negotiations**

18 Rule 23(e)(2)(B) requires procedural fairness; that “the proposal was negotiated at arm’s
19 length.” Fed. R. Civ. P. 23(e)(2)(B). Courts in the Ninth Circuit “put a good deal of stock in the
20 product of an arms-length, non-collusive, negotiated resolution” in approving a class action settlement.
21 *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009); *see also In re Netflix Privacy Litig.*,
22 2013 WL 1120801, at *4 (N.D. Cal. Mar. 18, 2013) (“Courts have afforded a presumption of fairness
23 and reasonableness of a settlement agreement where that agreement was the product of non-collusive,
24 arms’ length negotiations conducted by capable and experienced counsel”).

25 Here, Lead Counsel engaged in rigorous settlement negotiations with counsel for the
26 Defendants in a process assisted by an experienced, well-respected Mediator. Porritt Decl. ¶¶ 13, 27.
27 This included multiple calls with the mediator and the exchange of settlement offers. *Id.* While the
28 mediation efforts were initially unsuccessful, the Parties continued to negotiate in good faith and

1 signed a stipulation of settlement on June 30, 2023 (the “Stipulation”). Porritt Decl. Porritt Decl. ¶¶2,
2 27.

3 It is also important to note that the Settlement has none of the indicia of collusion identified by
4 the Ninth Circuit. *See In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011)
5 (“subtle signs” of collusion include a “disproportionate distribution of the settlement” between the
6 class and class counsel, “a ‘clear sailing’ arrangement providing for the payment of attorneys’ fees
7 separate and apart from class funds,” or an agreement for “fees not awarded to revert to defendants
8 rather than be added to the class fund”). Accordingly, this factor militates in favor of final approval.

9 **3. The Settlement Is An Excellent Result For the Settlement Class In Light of**
10 **The Benefits of The Settlement And The Risks of Continued Litigation**

11 Under Rule 23(e)(2)(C), the Court must also consider whether “the relief provided for the class
12 is adequate, taking into account . . . the costs, risks, and delay of trial and appeal” along with other
13 relevant factors. Fed. R. Civ. P. 23(e)(2)(C). Rule 23(e)(2)(C)(i) essentially incorporates three of the
14 traditional *Hanlon* factors: the strength of plaintiff’s case (first factor); the risk, expense, complexity,
15 and likely duration of further litigation (second factor), and the risks of maintaining class action status
16 through the trial (third factor). *Arlo*, 2021 WL 1531171, at *8 (citing *Hanlon*, 150 F.3d at 1026). As
17 discussed below, each of these factors supports the Settlement’s approval.

18 **a. The Strength of Plaintiffs’ Case and Risk Of Continued Litigation**

19 In assessing whether the proposed Settlement is fair, reasonable, and adequate, the Court “must
20 balance against the continuing risk of litigation, including the strengths and weaknesses of plaintiff’s
21 case, against the benefits afforded to class members, including the immediacy and certainty of a
22 recovery.” *Knapp v. Art.com, Inc.*, 283 F. Supp. 3d 823, 831 (N.D. Cal. 2017).

23 The risks of continued litigation here were considerable, and there was a high likelihood that
24 the Class would receive nothing. In considering the Settlement, Plaintiffs and Lead Counsel weighed
25 the risks inherent in succeeding on appeal and establishing all the elements of the claims, as well as
26 the likely further expense and duration of the Action. *See Churchill Vill., L.L.C. v. Gen. Elec.*, 361
27 F.3d 566, 576 (9th Cir. 2004) (citing risk, expense, complexity, and likely duration of further litigation
28 as factors supporting final approval of settlement). Here, the risks were extremely real as the Court

1 had already dismissed most of the allegations in the Second Amended Complaint. Porritt Decl. ¶ 25.
2 Further, there were also substantial risks to success at class certification, summary judgment and trial.
3 *Id.*, at ¶¶ 35-36.

4 Defendants adamantly deny any wrongdoing, and as in their motions to dismiss, were prepared
5 to make a multi-pronged defense against Plaintiffs' claims. *Id.*, at ¶¶ 30-34. Although Plaintiffs and
6 Lead Counsel believe that this case has substantial merit, they recognize the significant risks associated
7 with the case, specifically concerning the completion of fact and expert discovery, summary judgment,
8 trial, and subsequent appeals, as well as the inherent difficulties and delays complex litigation like this
9 entails. *See, e.g., In re Wireless Facilities, Inc. Sec. Litig. II*, 253 F.R.D. 607, 612 (S.D. Cal. 2008)
10 (preliminarily approving settlement where "[I]iability remains uncertain" as "it appears to the Court
11 that plaintiffs have a viable claim regarding the alleged securities fraud and Defendants have a viable
12 defense against such claims"). Likewise, the determination of damages, like the determination of
13 liability, is a complicated and uncertain process, involving conflicting expert testimony. *In re Tyco*
14 *Int'l, Ltd.*, 535 F. Supp. 2d 249, 260-61 (D.N.H. 2007) ("even if the jury agreed to impose liability, the
15 trial would likely involve a confusing 'battle of the experts' over damages.").

16 Continued litigation would be uncertain, complex, costly, and lengthy—additional depositions
17 would have had to be taken, experts would need to be designated and expert discovery completed,
18 Defendants' expected summary judgment motion(s) would have to be successfully briefed and argued,
19 and trials are innately expensive, risky, and uncertain. Porritt Decl. ¶35. Moreover, any judgment
20 favorable to the Settlement Class would be the subject of post-trial motions and appeal, which could
21 prolong the case for years with the ultimate outcome uncertain. *Id.*, at ¶36. By contrast, the \$3,000,000
22 Settlement provides a favorable, immediately realizable recovery and eliminates all the risk, delay, and
23 expense of continued litigation. *Id.*, at ¶9. An evaluation of the benefits of settlement must be tempered
24 by recognizing that any compromise involves concessions on the part of all settling parties. Indeed,
25 "the very essence of a settlement is compromise, 'a yielding of absolutes and an abandoning of highest
26 hopes.'" *Officers for Justice*, 688 F.2d at 624 (citation omitted).

27 There is no better indication of the future risks Plaintiffs faced in continuing litigation than that
28 of the Court's dismissal of the majority of its claims. *See In re Xcel Energy, Inc., Sec., Deriv. &*

1 “ERISA” Litig., 364 F. Supp. 2d 980, 1003 (D. Minn. 2005) (“The court needs to look no further than
2 its own order dismissing the shareholder ... litigation to assess the risks involved.”); *see also In re BP*
3 *p.l.c. Sec. Litig.*, 852 F. Supp. 2d 767, 820 (S.D. Tex. 2012) (“The Court is acutely aware that federal
4 legislation and authoritative precedents have created for plaintiffs in all securities actions formidable
5 challenges to successful pleading.”).

6 On top of those risks, assuming the parties did not settle, a further escalation of risks would
7 have followed. For example, to defeat a summary judgment motion and prevail at trial, Plaintiffs
8 would have to prove by a preponderance of the evidence, among other things, that: (i) Defendants
9 made false and/or misleading statements in their IPO Registration Statement; and (ii) the alleged
10 putative class suffered damages as a result of such false statements. Although Plaintiffs and Lead
11 Counsel believe that the case has merit, they recognize establishing liability beyond the pleading stage
12 is uncertain. Porritt Decl. ¶30; *see also In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1172
13 (S.D. Cal. 2007) (approving settlement and noting that “the Court also recognizes that the issues of
14 scienter and causation are complex and difficult to establish at trial.”).

15 Moreover, any judgment favorable to the Settlement Class likely would be the subject of post-
16 trial motions and appeal, which could prolong the case for years with the ultimate outcome
17 uncertain. *See In re Apple Computer Sec. Litig.*, 1991 WL 238298 (N.D. Cal. Sept. 6, 1991)
18 (overturning jury verdict for plaintiffs after extended trial); *Robbins v. Koger Props., Inc.*, 116 F.3d
19 1441 (11th Cir. 1997) (jury verdict of \$81 million for plaintiffs against an accounting firm reversed on
20 appeal on loss causation grounds and judgment entered for defendant).

21 In sum, continued litigation would be risky and uncertain, and assuming the litigation were
22 even able to proceed past the pleading stage, it would be complex, costly, and lengthy. By contrast,
23 the \$3,000,000 Settlement provides a favorable, immediately realizable recovery and eliminates all the
24 risks of continued litigation. *See In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 176
25 (S.D.N.Y. 2014) (“[t]he present value of a certain recovery at this time, compared to the slim chance
26 for a greater one down the road, supports approval of a settlement that eliminates the expense and
27 delay of continued litigation, as well as the significant risk that the Class could receive no recovery”).
28

1 *Semiconductor Corp.*, 2017 WL 4750628, at *8 (N.D. Cal. Oct. 20, 2017) (approving similar plan of
2 distribution).

3 **Rule 23(e)(2)(C)(iii)**: The relief provided for the Settlement Class is also adequate when the
4 terms of the proposed award of attorneys' fees is taken into account. As detailed in the accompanying
5 Fee Memorandum, a proposed attorneys' fee of 30% (\$900,000) of the Settlement Fund (which, by
6 definition, includes interest earned on the Settlement Amount) is reasonable in light of the work
7 performed and the results obtained. The proposed attorneys' fee is also consistent with awards in
8 similar complex class action cases. *See In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d at 463 (9th Cir.
9 2000) (upheld fee award of one-third of \$1.725 million settlement). More importantly, approval of the
10 requested attorneys' fees is separate from approval of the Settlement, and the Settlement may not be
11 terminated based on any ruling with respect to attorneys' fees. *See* Stipulation ¶ 7.5.

12 **Rule 23(e)(2)(C)(iv)**: Finally, in accordance with Rules 23(e)(2)(C)(iv) and 23(e)(3), and as
13 Plaintiffs noted in their preliminary approval papers, Plaintiffs and Bloom entered into a confidential
14 agreement that establishes certain conditions pursuant to which Bloom may terminate the Settlement
15 in the event that Settlement Class Members timely and validly requesting exclusion (or "opt out") from
16 the Settlement Class meet the conditions set forth in the agreement. This agreement was filed with the
17 Court under seal on October 30, 2023. ECF No. 244-3. "This type of agreement is standard in
18 securities class action settlements and has no negative impact on the fairness of the Settlement."
19 *Christine Asia Co. v. Yun Ma*, 2019 WL 5257534, at *15 (S.D.N.Y. Oct. 16, 2019), *appeal withdrawn*
20 *sub nom. Tan Chao v. William*, 2020 WL 763277 (2d Cir. Jan. 2, 2020); *see also In re Carrier IQ, Inc.*,
21 *Consumer Privacy Litig.*, 2016 WL 4474366, at *5 (N.D. Cal. Aug. 25, 2016) (granting final approval
22 of class action settlement and observing that such "opt-out deals are not uncommon as they are
23 designed to ensure that an objector cannot try to hijack a settlement in his or her own self-interest.").

24 **5. The Settlement Treats All Settlement Class Members Equitably Relative
25 To Each Other**

26 Rule 23(e)(2)(D) requires courts to evaluate whether the settlement treats class members
27 equitably relative to one another. Fed. R. Civ. P. 23(e)(2)(D). Under the proposed Plan of Allocation,
28 each Authorized Claimant will receive his, her, or its *pro rata* share of the Net Settlement Fund. The

1 formula for determining each Claimant’s Recognized Claim is based on an out-of-pocket measure of
 2 damages consistent with the alleged violations of the Securities Act and the Exchange Act and takes
 3 into consideration when each Claimant purchased and/or sold shares of Bloom Energy common stock.
 4 Plaintiffs will receive the same level of *pro rata* recovery, based on their Recognized Claim as
 5 calculated by the Plan of Allocation, as all other similarly situated Settlement Class Members. ¶¶ 56-
 6 65. Accordingly, this factor favors final approval of the Settlement. *See Yang v. Focus Media Holding*
 7 *Ltd.*, 2014 WL 4401280, at *10 (S.D.N.Y. Sept. 4, 2014) (“the Plan of Allocation ensures an equitable
 8 *pro rata* distribution of the Net Settlement Fund among all Authorized Claimants based solely on when
 9 they purchased and sold shares, taking into account the relative amounts of artificial inflation
 10 prevailing during the Class Period.”); *Vinh Nguyen v. Radiant Pharm. Corp.*, 2014 WL 1802293, at *5
 11 (C.D. Cal. May 6, 2014).

12 **6. The Positive Reaction Of The Settlement Class Supports Settlement** 13 **Approval**

14 The eighth *Hanlon* factor—the reaction of the Class—overlaps with Rules 23(e)(4), on the
 15 opportunity for exclusion, and 23(e)(5), on the opportunity to object. As required by Rules 23 (e)(4)
 16 & (5), the Settlement affords Settlement Class Members the opportunity to request exclusion from, or
 17 object to, the Settlement. Webb Decl., Ex. B. Approximately 67,333 copies of the Postcard Notice
 18 have been distributed to potential Settlement Class Members and the Summary Notice was published
 19 in *Investor’s Business Weekly* and transmitted over the *PR Newswire*, a national online newswire
 20 service. *Id.* ¶¶ 10, 12. To date, no requests for exclusion have been received, and no objections have
 21 been filed with the Court. *Id.* ¶¶ 17-18. The Settlement Class’s overwhelmingly positive reaction
 22 strongly supports final approval of the Settlement. *Omnivision*, 559 F. Supp. 2d at 1043 (“the absence
 23 of a large number of objections to a proposed class action settlement raises a strong presumption that
 the terms of a proposed class action settlement are favorable to class members.”).

24 **7. The Remaining *Hanlon* Factors Are Neutral Or Weigh In Favor Of Final** 25 **Approval**

26 *Hanlon* also outlined several factors that are not coextensive with Rule 23(e)(2)’s new factors.
 27 These factors, viewed in light of the Rule 23(e)(2) factors identified above, support final approval.

1 **The Amount Offered In Settlement:** “To evaluate the adequacy of the settlement amount,
2 ‘courts primarily consider plaintiffs’ expected recovery against the value of the settlement offer.”
3 *Wells Fargo*, 2018 WL 6619983, at *8. “This determination requires evaluating the relative strengths
4 and weaknesses of the plaintiffs’ case; it may be reasonable to settle a weak claim for relatively little,
5 while it is not reasonable to settle a strong claim for the same amount.” *Vikram v. First Student*
6 *Management, LLC*, 2019 WL 1084169, at *3 (N.D. Cal. March 7, 2019); *see also Shapiro v. JPMorgan*
7 *Chase & Co.*, 2014 WL 1224666, at *11 (S.D.N.Y. Mar. 24, 2014) (settlement amount must be judged
8 “not in comparison with the possible recovery in the best of all possible worlds, but rather in light of
9 the strengths and weaknesses of plaintiffs’ case”). Indeed, “[t]here is no reason, at least in theory, why
10 a satisfactory settlement could not amount to a hundredth or even a thousandth part of a single percent
11 of the potential recovery.” *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 n.2 (2nd Cir. 1974);
12 *see also In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (“It is well-settled law
13 that a cash settlement amounting to only a fraction of the potential recovery does not *per se* render the
14 settlement inadequate or unfair.”).

15 Here, Plaintiff’s damages expert estimates that if Plaintiffs had prevailed on their allegations,
16 and (i) Plaintiffs survived motion(s) for summary judgment on all elements and also convinced a jury
17 that liability was proven; and (ii) the Court and jury accepted Plaintiffs’ damages theory, including
18 defeating Defendants’ affirmative defenses as to each stock price drop dates alleged in this case—*i.e.*,
19 Plaintiff’s *best case scenario*—the total *maximum* damages would be approximately \$57.8 million.
20 Porritt Decl. ¶ 33. Of course, less than a complete victory on any aspect of these assumptions would
21 decrease recoverable damages, and each element at issue (including Defendants’ affirmative causation
22 defenses) was strongly contested by Defendants. Under such a scenario, the \$3,000,000 recovery
23 represents approximately 5.2% of the estimated maximum damages potentially available in this
24 Action. Porritt Decl. ¶ 11.

25 Especially in the light of these risks, the percentage of recovery is reasonable and well within
26 the range of other securities class action settlements, especially given the procedural history and stage
27 of the litigation. *Id.* Of course, Defendants would have continued to challenge all aspects of the case,
28 and given the current procedural posture of the case, the prospect that Plaintiffs would have obtained

1 any recovery was far from guaranteed. *Id.* at ¶¶29-36. Consequently, the amount recovered, when
2 balanced against the risks of continued litigation, weighs strongly in favor of approval.

3 **The Extent Of Discovery Completed And The Stage Of The Proceedings:** “In the context
4 of class action settlements, formal discovery is not a necessary ticket to the bargaining table where the
5 parties have sufficient information to make an informed decision about settlement.” *In re Mego Fin.*
6 *Corp.*, 213 F.3d at 459 (9th Cir. 2000). “Instead, courts look for indications the parties carefully
7 investigated the claims before reaching a resolution.” *In re: Volkswagen “Clean Diesel” Mktg., Sales*
8 *Practices, & Prod. Liab. Litig.*, 2016 WL 6248426, at *13-14 (N.D. Cal. Oct. 25, 2016).

9 Here, Lead Counsel conducted an extensive investigation into the claims asserted in this
10 Action, which included a far-reaching review of publicly available information, significant work with
11 a private investigator who conducted numerous fact interviews with former employees and other third
12 parties, and consultation with experts in the fields of financial analysis, loss causation, and damages.
13 Porritt Decl. ¶19. Additionally, Lead Counsel filed the First Amended Complaint, filed the Second
14 Amended Complaint, opposed Defendants’ three motion(s) to dismiss, engaged in fact discovery,
15 participated in a mediation process, and reviewed and analyzed the Court’s decisions. Porritt Decl.
16 ¶¶20-25. As a result of these efforts, Plaintiffs and Lead Counsel had a thorough understanding of the
17 claims and defenses asserted in the Action, and the significant risks to establishing liability and
18 damages. This understanding enabled Plaintiffs and Lead Counsel to negotiate the Settlement
19 intelligently and responsibly. *See Vaccaro v. New Source Energy Partners L.P.*, 2017 WL 6398636,
20 at *5 (S.D.N.Y. Dec. 14, 2017) (“Although the action did not proceed to formal discovery, Lead
21 Plaintiff (i) reviewed vast amounts of publicly available information, (ii) conducted interviews of
22 numerous individuals, and (iii) consulted experts on the . . . industry. The Court finds that Lead
23 Plaintiffs were well-informed to gauge the strengths and weaknesses of their claims and the adequacy
24 of the settlement.”).

25 **The Experience And Views Of Counsel:** “The recommendation of experienced counsel
26 carries significant weight in the court’s determination of the reasonableness of the settlement.” *In re*
27 *Heritage Bond Litig.*, 2005 WL 1594403, at *9 (C.D. Cal. June 10, 2005). This makes sense, as counsel
28 is “most closely acquainted with the facts of the underlying litigation.” *Id.*

1 As discussed above, Lead Counsel has a thorough understanding of the merits and weakness
2 of the claims, as well as extensive prior experience litigating securities class action cases. Under such
3 circumstances, Lead Counsel’s conclusion that the Settlement is fair and reasonable and in the best
4 interests of the Settlement Class likewise supports the Settlement’s approval. *See In re Omnivision*,
5 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2007) (finding class counsel’s recommendation in favor of
6 settlement presumptively reasonable because counsel demonstrated knowledge about the case and
7 securities litigation in general).

8 **The Presence Of A Governmental Participant** “Because no government entities are
9 participants in this case, this factor is neutral.” *Amgen*, 2016 WL 10571773, at *4.

10 As discussed in detail above, each of the Rule 23(e)(2) and *Hanlon* factors either supports a
11 finding that the Settlement is fair, reasonable, and adequate, or is neutral. Final approval is, therefore,
12 appropriate.

13 **B. The Plan Of Allocation Is Fair And Reasonable**

14 Plaintiffs also request final approval of the Plan of Allocation. A plan of allocation in a class
15 action “is governed by the same standards of review applicable to approval of the settlement as a
16 whole: the plan must be fair, reasonable, and adequate.” *Omnivision*, 559 F. Supp. 2d at 1045. The
17 allocation formula used in a plan of allocation “need only have a reasonable, rational basis, particularly
18 if recommended by experienced and competent counsel.” *Maley v. Del Global Tech. Corp.*, 186 F.
19 Supp. 2d 358, 367 (S.D.N.Y. 2002). “A plan which fairly treats class members by awarding a *pro rata*
20 share to every Authorized Claimant, even as it sensibly makes interclass distinctions based upon, *inter*
21 *alia*, the relative strengths and weaknesses of class members’ individual claims and the timing of
22 purchases of the securities at issue should be approved as fair and reasonable.” *Schueneman v. Arena*
23 *Pharmaceuticals, Inc.*, 2020 WL 3129566, at *7 (S.D. Cal. June 12, 2020).

24 The Plan of Allocation, as detailed in ¶¶39-54 of the Porritt Declaration, and set forth in the
25 Notice (Webb Decl., Ex. B). Under the proposed Plan of Allocation, each Authorized Claimant will
26 receive his, her, or its *pro rata* share of the Net Settlement Fund, which is the Settlement Fund (*i.e.*,
27 the \$3 million Settlement Amount plus any and all interest earned thereon) less any: (i) Taxes; (ii)

1 Notice and Administration Costs; (iii) Litigation Expenses awarded by the Court; and (iv) attorneys’
2 fees awarded by the Court.

3 The Plan of Allocation provides for distribution of the Net Settlement Fund among Authorized
4 Claimants on a *pro rata* basis based on a “Recognized Loss” formula that is based on the timing of the
5 purchases and sales of Bloom Energy common stock and the decline that occurred in the price of the
6 stock. Porrit Decl. ¶ 50; Webb Decl., Ex. B at ¶ 48. An individual Claimant’s recovery under the Plan
7 of Allocation will depend on a number of factors, including the number of valid claims filed by other
8 Claimants and how many shares of Bloom Energy common stock the Claimant purchased, acquired,
9 or sold during the Settlement Class Period. If a Claimant purchased and sold shares prior to a corrective
10 disclosure, the Claimant’s recovery under the Plan of Allocation will be zero. *Id.*; Webb Decl., Ex. B
11 at ¶ 49. This is a widely accepted approach to the fair distribution of settlement funds in securities class
12 action settlements.

13 If any funds remain after an initial distribution to Authorized Claimants, as a result of uncashed
14 or returned checks or other reasons, subsequent distributions will be conducted as long as they are cost
15 effective. Porrit Decl. ¶ 53; Webb Decl., Ex. B at ¶ 60. When it is determined that the re-distribution
16 of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance shall be
17 contributed—subject to Court approval—to the Bay Area Financial Education Foundation. *Id.* The
18 Bay Area Financial Education Foundation is a 501(c)(3) nonprofit organization devoted to financial
19 education on Title I schools and low to moderate income communities, at-risk youth, and organizations
20 that support BIPOC students; bringing financial literacy to those who need it most. Part of its financial
21 curriculum is a module titled “Basics of Investing” which involves “foundational investing principles,
22 including stocks, bonds, index funds, and exchange-traded funds.” <https://www.bafef.org/modules>.
23 Therefore, this is a proper *cy pres* recipient because of the nature of the securities fraud claims asserted
24 in the Action

25 Lead Counsel believes that the Plan of Allocation will result in a fair and equitable distribution
26 of the Settlement proceeds among Settlement Class Members who submit valid claims. *Id.* at ¶54. To
27 date, no objections to the Plan of Allocation have been received by Lead Counsel or filed on this
28 Court’s docket. *Id.* at ¶¶7, 45. Accordingly, Plaintiffs respectfully request that the Court approve the

1 proposed Plan of Allocation. *See In re Heritage Bond Litig.*, 2005 WL 1594403, at *12 (C.D. Cal.
2 June 10, 2005) (“In light of the lack of objectors to the plan of allocation at issue, and the competence,
3 expertise, and zeal of counsel in bringing and defending this action, the Court finds the plan of
4 allocation as fair and adequate.”).

5 **C. The Settlement Class should Be Finally Certified**

6 The Court’s October 31, 2023 Preliminary Approval Order certified the Settlement Class for
7 settlement purposes only under Fed. R. Civ. P. 23(a) and (b)(3). Porritt Decl. ¶28. There have been no
8 changes to alter the propriety of class certification for settlement purposes. Thus, for the reasons stated
9 in Plaintiffs’ Unopposed Motion for Preliminary Approval of Settlement (ECF No. 237), Plaintiffs
10 respectfully request that the Court affirm its determinations in the Preliminary Approval Order
11 certifying the Settlement Class under Rules 23(a) and (b)(3).

12 **D. The Notice Program Satisfies Rule 23 and Due Process**

13 For any class certified under Rule 23(b)(3), due process and Rule 23 require that class members
14 be given “the best notice practicable under the circumstances, including individual notice to all
15 members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). This Court
16 has already found that the proposed notice program is adequate and sufficient (*see* Preliminary
17 Approval Order, ECF No. 245), and Lead Counsel and Epiq carried out the notice program as
18 proposed. *See* Webb Decl., at ¶¶4-16. The Settlement Class has, therefore, received “the best notice
19 practicable under the circumstances.” Fed. R. Civ. P. 23(c)(2)(B).

20 **E. The Court Should Also Enter Separate Judgment Against Non-Settling**
21 **Defendant PwC.**

22 The claims against non-settling Defendant PwC were completely dismissed in the Court’s
23 September 29, 2021 Order on the three motions to dismiss. Porritt Decl. ¶26. As part of the Settlement,
24 Plaintiffs have explicitly preserved their right to appeal the Court’s order dismissing PwC. *See* ECF
25 No. 237-3 (Stipulation) ¶¶ 1.44, 1.46, 3.2. Accordingly, Plaintiffs respectfully request the Court enter
26 the accompanying separate final judgment against PwC pursuant to Rule 54(b).

1 **V. CONCLUSION**

2 For the foregoing reasons, Plaintiffs respectfully request that the Court grant the unopposed
3 motion for final approval of the Settlement and approve the proposed Plan of Allocation.

4 Dated: February 1, 2024

Respectfully submitted,

5 **LEVI & KORSINSKY, LLP**

6 /s/ Nicholas I. Porritt

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10 [additional counsel on signature page]

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 ELISSA M. ROBERTS, Individually and on
14 Behalf of All Others Similarly Situated,

15 Plaintiff,

16 v.

17 BLOOM ENERGY CORPORATION, KR
18 SRIDHAR, RANDY FURR, L. JOHN DOERR,
19 SCOTT SANDELL, EDDY ZERVIGON,
20 PETER TETI, MARY K. BUSH, KELLY A.
21 AYOTTE, J.P. MORGAN SECURITIES LLC,
22 MORGAN STANLEY & CO. LLC, CREDIT
23 SUISSE SECURITIES (USA) LLC,
24 KEYBANC CAPITAL MARKETS INC.,
25 MERRILL LYNCH, PIERCE, FENNER &
26 SMITH IN CORPORATED, ROBERT W.
27 BAIRD & CO., INCORPORATED, COWEN
28 AND COMPANY, LLC, HSBC SECURITIES
(USA) INC., OPPENHEIMER & CO. INC.,
RAYMOND JAMES & ASSOCIATES, INC.,
and PRICEWATERHOUSECOOPERS LLP,

Defendants.

Case No. 4:19-cv-02935-HSG

**DECLARATION OF NICHOLAS I.
PORRITT IN SUPPORT OF:
(I) PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS
ACTION SETTLEMENT AND PLAN OF
ALLOCATION; AND (II) LEAD
COUNSEL'S MOTION FOR AN AWARD
OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION**

Honorable Haywood S. Gilliam, Jr.
Hearing Date: May 2, 2024
Hearing Time: 2:00 p.m.
Place: Courtroom 2, 4th Floor

1 I, Nicholas I. Porritt, declare under penalty of perjury pursuant to 28 U.S.C. § 1746, as
2 follows:

3 1. I am a partner in the firm of Levi & Korsinsky, LLP (“Lead Counsel”). Levi &
4 Korsinsky is counsel for Lead Plaintiff James Everett Hunt and the Class. I have personal knowledge
5 of the matters stated herein based on my participation in this action and review of records maintained
6 by my firm.

7 2. I am using capitalized terms not otherwise defined herein with the same meaning as
8 used in the Settling Parties’ Stipulation of Settlement, dated June 30, 2023. ECF 237-3.

9 3. Court-appointed Lead Counsel Levi & Korsinsky, LLP, is counsel of record for Lead
10 Plaintiff James Everett Hunt and additional plaintiffs Juan Rodriguez, Kurt Voutaz, Joel White,
11 Andrew Austin, and Ryan Fishman in the above-captioned action. I am the partner who oversaw or
12 conducted the day-to-day activities in the Action on behalf of my firm. I am familiar with the
13 proceedings in this litigation and have personal knowledge of the matters set forth herein based upon
14 supervising and participating in all aspects of the Action.

15 4. I respectfully submit this declaration, together with the attached exhibits, in support
16 of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation and the
17 concurrently filed memorandum in support thereof (“Final Approval Memorandum”). As set forth
18 in the Final Approval Memorandum, Plaintiffs seek final approval of the \$3,000,000 Settlement for
19 the benefit of the Settlement Class, as well as final approval of the proposed Plan of Allocation of
20 the Net Settlement Fund to eligible Settlement Class Members.

21 5. I also respectfully submit this declaration in support of Lead Counsel’s Motion for
22 an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses and the concurrently filed
23 memorandum in support thereof (“Fee Memorandum”). As set forth in the Fee Memorandum, Lead
24 Counsel, on behalf of Plaintiffs’ Counsel, seeks an award of attorneys’ fees in the amount of 30%
25 of the Settlement Fund, which amounts to \$900,000, plus interest accrued thereon, and
26 reimbursement of Litigation Expenses in an amount of \$85,000.

1 6. The Court entered the Order Preliminarily Approving Settlement and Providing for
2 Notice on October 31, 2023 (the “Preliminary Approval Order”), and thereby directed notice of the
3 Settlement to be disseminated to the Settlement Class. *See* ECF No. 245. Pursuant to the
4 Preliminary Approval Order, Epiq Class Action and Claims Solutions, Inc. (“Epiq”), the Court-
5 approved Claims Administrator, implemented a comprehensive notice program under the direction
6 of Lead Counsel, whereby notice was given to potential Settlement Class Members by mail and by
7 publication.

8 7. In total, notice has been disseminated to 67,333 potential Settlement Class Members
9 and nominees, and thus far no requests exclusions or objections have been received.

10 **I. INTRODUCTION**

11 8. This is a class action that asserted claims asserted violations of the federal securities
12 laws under Sections 11 and 15 of the Securities Act of 1933; Sections 10(b) and 20(a) of the
13 Securities Exchange Act of 1934; and SEC Rule 10b-5 against Defendants Bloom Energy
14 Corporation (“Bloom”), KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon,
15 Peter Teti, Mary K. Bush, Kelly A. Ayotte, J.P. Morgan Securities LLC, Morgan Stanley & Co.
16 LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce,
17 Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc.,
18 Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co.
19 Incorporated (collectively, the “Settling Defendants”), as well as non-settling Defendant
20 PricewaterhouseCoopers LLP (“PwC”).

21 9. The proposed Settlement provides for the resolution of all claims in the Action
22 against the Settling Defendants in exchange for a cash payment of \$3,000,000 (the “Settlement
23 Amount”) for the benefit of the Settlement Class. As detailed herein, Plaintiffs and Lead Counsel
24 submit that the proposed Settlement represents a favorable result for the Settlement Class
25 considering the procedural posture of the case as well as the significant risks remaining in the
26 litigation, including the fact that the remaining misrepresentations were subject to factual disputes,
27 as well as issues with causation and damages.

1 10. Additionally, the \$3,000,000 cash Settlement Amount is within the range of
2 reasonableness under the circumstances to warrant final approval of the Settlement. As discussed
3 in detail below, the realistic maximum recoverable damages in this action under the Section 11
4 claims were \$57.8 million, rather than the \$170 million amount generated by the statutory formula.

5 11. The \$3,000,000 Settlement Amount represents approximately 5.2% of \$57.8 million
6 in damages. This percentage of recovery for a securities litigation matter is within the range of
7 reasonableness considering the circumstances.

8 12. Indeed, the Settlement provides a substantial, certain, and immediate recovery, while
9 avoiding the significant risks and expense of continued litigation, including the risk that the
10 Settlement Class could recover less than the Settlement Amount (or nothing) after years of
11 additional litigation and delay.

12 13. The Settlement was reached after over four years of contested litigation. Lead
13 Counsel’s efforts included the preparation of two amended complaints alleging both Securities Act
14 and Exchange Act claims; briefing a motion to modify the confidentiality provision of a potential
15 witness; preparing briefing for Defendants’ motion to strike portions of the Second Amended
16 Complaint; preparing briefing on three motions to dismiss that were separately filed by the Section
17 10(b) Defendants, the Section 11 Defendants, and PwC; preparing briefing on Plaintiffs’ Rule 54(b)
18 motion to direct entry of judgment as to PwC; engaging in extensive and voluminous fact
19 discovery—including the production and review of over 13,200 documents totaling 171,500 pages,
20 the deposition of Lead Plaintiff James Everett Hunt, and serving 49 non-party subpoenas on Bloom’s
21 customers and other relevant parties; preparing briefing on Plaintiffs’ motion for interlocutory
22 appeal of the Court’s order granting in part and denying in part Defendants’ motions to dismiss the
23 Second Amended Complaint; preparing briefing—including supplemental joint briefing on the
24 proposed class definition—and oral argument on Plaintiffs’ motion for class certification; preparing
25 briefing for and participating in a full-day virtual mediation session on December 20, 2022, with
26 experienced Phillips ADR mediator Michelle Yoshida, which—after several rounds of post-
27 mediation discussions—resulted in a “mediator’s recommendation” for settlement that the parties
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1 accepted; and the negotiation and preparation of a settlement term sheet containing the material
2 terms for the settlement.

3 14. Based on the foregoing efforts, Plaintiffs and Lead Counsel are well aware of the
4 strengths and weaknesses of the claims and defenses in the Action, and believe the Settlement
5 represents a favorable outcome for the Settlement Class and is in the best interests of its members.
6 For all the reasons set forth herein and in the accompanying memoranda and declarations, Plaintiffs
7 and Lead Counsel respectfully submit that the Settlement is “fair, reasonable, and adequate” in all
8 respects, and that the Court should grant final approval pursuant to Rule 23(e) of the Federal Rules
9 of Civil Procedure.

10 15. In addition, Plaintiffs seek approval of the proposed Plan of Allocation as fair and
11 reasonable. As discussed in further detail below, Lead Counsel developed the Plan of Allocation
12 with the assistance of Plaintiffs’ damages consultant. The Plan of Allocation provides for the
13 distribution of the Net Settlement Fund to each Authorized Claimant on a *pro rata* basis based on
14 their Recognized Loss amounts.

15 16. Finally, Lead Counsel seeks approval of the request for attorneys’ fees and
16 reimbursement of Litigation Expenses as set forth in the Fee Memorandum. As discussed in detail
17 in the accompanying Fee Memorandum, the requested 30% fee of \$900,000 is within the range of
18 percentage awards granted by courts in comparable securities class actions. Additionally, the
19 fairness and reasonableness of the request is confirmed by a lodestar cross-check and warranted in
20 light of the extent and quality of the work performed and the result achieved. Likewise, the
21 requested out-of-pocket litigation costs of \$85,000 is also fair and reasonable. Accordingly, for the
22 reasons set forth in the Fee Memorandum and for the additional reasons set forth herein, Lead
23 Counsel respectfully submits that the request for attorneys’ fees and reimbursement of Litigation
24 Expenses be approved.

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1 **II. PROSECUTION OF THE ACTION**

2 **A. Background**

3 17. This litigation commenced on May 28, 2019, with the filing of Roberts v. Bloom
4 Energy Corp., at el., No. 3:19-cv-02935 (N.D. Cal.), which alleged securities fraud claims on behalf
5 of a putative class against Bloom, KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy
6 Zervigon, General Colin L. Powell, Peter Teti, Mary K. Bush, and Kelly A. Ayotte. ECF No. 1.

7 18. Following the publication of a notice as required under the Private Securities
8 Litigation Reform Act of 1995 and the filing of competing motions for appointment as lead plaintiff
9 and lead counsel, on September 3, 2019, the Court appointed James Everett Hunt as lead plaintiff
10 and approved Levi & Korsinsky as lead counsel. ECF No. 39.

11 **B. The Comprehensive Pre-Filing Investigations, Preparation of the Complaints,
12 and Defendants' Motion to Dismiss the Complaints**

13 19. In drafting the First Amended Complaint and during the PSLRA automatic discovery
14 stay, Lead Counsel conducted an extensive factual investigation, which included: (a) a detailed
15 review of (i) Bloom Energy's SEC filings, press releases, conference calls, news reports, blog
16 postings, and other public statements made by Defendants prior to, during, and after the Settlement
17 Class Period; (ii) public documents, reports, announcements, and news articles concerning Bloom
18 Energy; (iii) research reports by securities and financial analysts; and (iv) economic analyses of
19 stock price movement and pricing data; (b) through a private investigator, conducting numerous fact
20 interviews with former employees and other third parties; (c) a review and analysis of other publicly
21 available material and data; and (d) consulting with experts in the field of damages.

22 20. In preparation for filing the amended complaint, Lead Plaintiff continued to
23 investigate Bloom's operations, including talking with Dwight Badger, the co-founder of Advanced
24 Equities, a now-defunct brokerage firm that raised over \$200 million for Bloom several years before
25 its initial public offering in July 2018. Lead Plaintiff believed that Mr. Badger possessed relevant
26 information that "would be materially beneficial for the purposes of establishing liability."
27 However, Mr. Badger believed he was unable to assist Lead Plaintiff due to the confidentiality
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1 provision in a 2014 Settlement Agreement between Bloom and Mr. Badger.

2 21. On November 1, 2019, Lead Plaintiff moved for an order modifying the
3 confidentiality provision in the Settlement Agreement. Defendants opposed, and the court denied
4 the motion. ECF No. 149 at 5-6.

5 22. On November 4, 2019, Lead Plaintiff filed the 55-page First Amended Complaint
6 against Bloom Energy and certain officers and directors. ECF No. 49.

7 23. While the First Amended Complaint was pending, Bloom Energy filed its Form 10K
8 for 2020 which restated certain items contained in its historical financial statements. Lead Counsel
9 conducted an additional extensive factual investigation, which included: (a) a detailed review of
10 (i) Bloom Energy's SEC filings, press releases, conference calls, news reports, blog postings, and
11 other public statements made by Defendants prior to, during, and after the Settlement Class Period;
12 (ii) public documents, reports, announcements, and news articles concerning Bloom Energy;
13 (iii) research reports by securities and financial analysts; and (iv) economic analyses of stock price
14 movement and pricing data; (b) through a private investigator, conducting numerous fact interviews
15 with former employees and other third parties; (c) a review and analysis of other publicly available
16 material and data; and (d) consulting with experts in the field of damages and accounting.

17 24. On April 21, 2020, Lead Plaintiffs filed a 171-page Second Amended Complaint
18 asserting claims under Sections 11 and 15 of the Securities Act of 1933 and Sections 10(b) and 20(a)
19 of the Exchange Act and Rule 10b-5 promulgated thereunder. ECF No. 113. Specifically, the Second
20 Amended Complaint alleges that the Registration Statement for its initial public offering, Bloom i)
21 improperly accounted for loss contingencies relating to its Energy Servers; ii) improperly accounted
22 for revenue; iii) failed to review weaknesses in its internal controls; iv) misrepresented the life cycle
23 of its fuel cells; v) misled investors as to construction delays affecting its business; and vi)
24 misrepresented the efficiency and pollution output of its Energy Servers. ECF No. 113, ¶3. Plaintiffs
25 further alleged that PwC, as Bloom's Auditor, is liable under Section 11 for alleged
26 misrepresentations in the audited financial statements in Bloom's Registration Statement. Id. ¶115-
27 117. Hagens Berman Sobol Shapiro LLP was also added as additional counsel.

1 25. On July 1, 2020, Defendants filed a Motion to Dismiss the Second Amended
2 Complaint. ECF No. 127, 129-30. On September 29, 2021, the Court largely granted the motions.
3 ECF No. 157. Specifically, the Court (1) dismissed the Section 10(b) claims in their entirety, (2)
4 dismissed the Section 11 claim against PwC in its entirety, and (3) dismissed the Section 11 claims
5 against all remaining Defendants as to all but two challenged statements. The sole surviving
6 statements were (a) a risk disclosure concerning construction delays, and (b) a statement that
7 Bloom's latest-generation Energy Servers were capable of beginning-of-life efficiency of 65%. *Id.*
8 Plaintiffs twice sought an immediate appeal, first moving for entry of judgment against PwC under
9 Rule 54(b) and then moving for interlocutory appeal under U.S.C. § 1292(b). The Court denied
10 both motions. ECF Nos. 167, 188.

11 **C. Discovery, Class Certification, Settlement Negotiations, and the Settlement's**
12 **Preliminary Approval**

13 26. Plaintiffs accordingly litigated the narrowed case that remained. Plaintiffs served
14 written discovery on Defendants and 49 non-party subpoenas on Bloom's customers. The parties
15 agreed to targeted discovery to assess the strengths and weaknesses of the remaining claims in
16 connection with a possible mediation. Plaintiffs received and reviewed over 13,200 documents
17 totaling 171,500 pages. Between March and June 2022, the parties conducted the deposition of Lead
18 Plaintiff and briefed class certification, and the Court heard argument on June 30, 2022. ECF No.
19 201. (The Court has not ruled on the motion, which has been terminated as moot subject to final
20 approval of the Settlement on March 16, 2023. ECF No. 226.).

21 27. In conjunction with Plaintiffs' discovery efforts, the Settling Parties began discussing
22 mediation in August 2022, and ultimately agreed to mediate with experienced Phillips ADR
23 mediator Michelle Yoshida. The parties exchanged two rounds of mediation briefs supported by
24 evidence obtained in discovery. On December 20, 2022, the Settling Parties attended a full-day
25 virtual mediation. The Settling Parties did not reach a settlement during the mediation but continued
26 to engage in post-mediation discussions with Ms. Yoshida. On January 4, 2023, Ms. Yoshida made
27 a mediator's proposal, which the Settling Parties accepted. On January 10, 2023, the Court stayed
28

1 all discovery and case deadlines considering the pending Settlement. ECF No. 216. The Settling
2 Parties subsequently negotiated a term sheet and stipulation of settlement. ECF No. 237-3.

3 28. On October 31, 2023, the Court issued a preliminary approval order, granting
4 preliminary approval to the proposed Settlement and provisionally certifying the proposed
5 Settlement Class. ECF No. 245.

6 **III. THE RISKS OF CONTINUED LITIGATION**

7 29. The Settlement provides an immediate and certain benefit to the Settlement Class in
8 the form of a non-reversionary cash payment of \$3,000,000. As explained more fully below, there
9 were significant risks that the Settlement Class might recover substantially less than the Settlement
10 Amount—or nothing at all—if the case were to proceed through additional litigation to a jury trial,
11 followed by the inevitable additional appeals. Prior to contemplating a potential trial and likely
12 appeal, the most immediate risk faced by the Settlement Class was the procedural posture of the
13 case—the Court had already granted Defendants’ motions to dismiss the majority of Plaintiffs’
14 claims asserted in the Action. There was no guarantee that Plaintiffs and the Settlement Class would
15 later achieve any recovery, let alone one greater than \$3,000,000.

16 **A. Risks to Proving Liability**

17 30. In addition to the hurdles of obtaining class action status (discussed below), Plaintiffs
18 and Lead Counsel faced numerous additional risks at summary judgment and trial, including
19 establishing Defendants’ liability and damages. After the ruling on Defendants’ motion to dismiss,
20 this case was reduced to two narrow statements: a risk disclosure about construction delays and the
21 65% beginning-of-life efficiency specification. Both were subject to significant factual disputes. On
22 the construction delay risk disclosure, Defendants would have sought to establish that they could
23 not have foreseen at the time of the IPO that construction delays ultimately caused Bloom to miss
24 third-quarter guidance. On the beginning-of-life efficiency specification, Defendants were expected
25 to offer lay and expert engineering evidence supporting the challenged 65% figure. The Underwriter
26 Defendants were additionally expected to vigorously pursue an affirmative defense of due diligence
27 as provided for in Section 11(b)(3).

1 **B. Risks to Proving Damages**

2 31. In addition to these disputes over falsity, the Defendants raised significant causation
3 and damages defenses pursuant to Section 11(e) of the Securities Act with respect to both of the
4 remaining challenged statements. So even though statutory damages consisted of approximately
5 \$170 million, even if Plaintiffs had prevailed completely on the merits on the surviving claims
6 against the Settling Defendants, it was uncertain whether they could actually recover more than a
7 small fraction of this amount.

8 32. As to the construction delay risk disclosure, Plaintiffs have alleged that the truth was
9 revealed on November 6, 2018, when Bloom announced a 4% miss on third-quarter guidance for
10 Energy Server acceptances. In its third-quarter earnings call, Defendants admitted the miss was due
11 to “construction delays.” Defendants argued that stock price declines on any other day during the
12 Class period were not resulting from the misleading portion of the Registration Statement regarding
13 construction delays and, therefore, are not recoverable from Defendants under Section 11. If
14 Defendants had succeeded with this negative causation defense, damages would have been limited
15 to the single-day November 6, 2018 decline. But Bloom’s stock price following that decline was
16 \$17.25, which was *higher* than the \$15 IPO price. This presented a very real possibility that damages
17 would have been zero: Section 11’s damages formula is based on the difference between the IPO
18 price and subsequent *lower* prices at the time of sale or the commencement of an action. Assuming
19 Plaintiffs could recover for solely the one-day November 6, 2018 decline, Plaintiffs’ expert
20 estimates damages related to this misrepresentation of approximately \$50 million.

21 33. With regard to the misrepresentations concerning the beginning-of-life efficiency
22 specification, Plaintiffs allege that this was disclosed to the public in a Hindenburg Report published
23 on September 17, 2019. The original complaint in this case, however, was filed four months earlier,
24 in May 2019. Defendants have maintained that because Section 11(e) caps damages by reference
25 to the value of a stock at the “time such suit was brought,” Plaintiffs cannot establish damages in
26 connection with the beginning-of-life efficiency statement, which was not corrected until after the
27 damages cap took hold. While Plaintiffs have argued throughout this litigation that the “time such
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1 suit was brought” is the date of the operative rather than the original complaint, there is no guarantee
2 Plaintiffs would succeed. Defendants argued that recoverable damages relating to this
3 misrepresentation should be limited to the single-day decline following that day when Bloom’s stock
4 price fell only \$0.88 that day. Based on this one-day decline, Plaintiffs’ expert calculates that this
5 one-day decline corresponds to damages of approximately \$7.8 million. Even that figure is based
6 on the assumption that the entirety of the September 17, 2019 drop can be attributed to the correction
7 of the beginning-of-life efficiency statement. Defendants, of course, would have sought to attribute
8 some or all of the decline to significant other items of company-specific information revealed by
9 the Hindenburg report on September 17, 2019. Thus, the realistic maximum recoverable damages
10 in this action under the Section 11 claims were \$57.8 million rather than the \$170 million amount
11 generated by the statutory formula.

12 34. In sum, had any of Defendants’ damages arguments been accepted, they could have
13 dramatically limited—if not eliminated—any potential recovery.

14 **C. Other Risks**

15 35. Plaintiffs would have to prevail at several stages of litigation, each of which would
16 have presented significant risks in complex class actions such as this one. Lead Counsel knows that
17 despite the most vigorous and competent efforts, success in complex litigation such as this case is
18 never assured. Complex litigation is uncertain, and success in cases like this one is never guaranteed.
19 I am acutely aware of this as I acted as trial counsel in *In re Tesla Inc. Securities Litigation*, Case
20 No. 3:18-cv-04865-EMC (N.D. Cal), where the jury returned a verdict in favor of defendants on
21 Rule 10b-5 claims even after summary judgment had been entered by the Court in plaintiff’s favor
22 on the elements of falsity and scienter.

23 36. Even if Plaintiffs succeeded in proving all elements of their case at trial and obtained
24 a jury verdict, Defendants almost certainly would have appealed. An appeal not only would have
25 renewed all the risks faced by Plaintiffs—as Defendants would have reasserted all their arguments
26 summarized above—but also would have resulted in significant additional delay. Given these
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1 significant litigation risks, Plaintiffs and Lead Counsel believe that the Settlement represents an
2 excellent result for the Settlement Class.

3 **D. The Settlement is Reasonable in Light of the Potential Recovery in the Action**

4 37. In addition to the attendant risks of litigation discussed above, the Settlement is also
5 fair and reasonable in light of the potential recovery of available damages. If Plaintiffs had fully
6 prevailed in each of their claims at both summary judgment and after a jury trial, if the Court
7 certified the Settlement Class, and if the Court and jury accepted Plaintiffs' damages theory, Lead
8 Plaintiffs' expert calculates Plaintiffs' total maximum damages are approximately \$57.8 million.

9 38. Defendants would likely assert a causation defense which could have substantially
10 reduced Plaintiffs' damages even further. In that light, the Settlement amount is even more
11 reasonable.

12 **IV. PLAINTIFFS' COMPLIANCE WITH THE COURT'S PRELIMINARY**
13 **APPROVAL ORDER REGARDING THE NOTICE PROGRAM**

14 39. The Preliminary Approval Order (ECF No. 245) directed that the Postcard Notice of
15 (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and
16 (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the
17 "Postcard Notice") be disseminated to the Settlement Class. The Preliminary Approval Order also
18 set a deadline of March 18, 2024 for Settlement Class Members to submit objections to the
19 Settlement, the Plan of Allocation, and/or the Fee Memorandum or to request exclusion from the
20 Settlement Class and set a final fairness hearing date of April 18, 2024 (the "Settlement Hearing").
21 The parties later amended the date of the final fairness hearing to May 2, 2024 upon the Court's
22 request. ECF 252.

23 40. Pursuant to the Preliminary Approval Order, Lead Counsel instructed Epiq, the
24 Court-approved Claims Administrator, to begin disseminating copies of the Postcard Notice in
25 conformity with the Court's modifications, and to publish the Summary Notice.
26 Contemporaneously with the mailing of the Postcard Notice, Lead Counsel instructed Epiq to post
27 downloadable copies of the Notice of (I) Pendency of Class Action and Proposed Settlement; (II)

1 Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement
2 of Litigation Expenses (the "Notice") and the Proof of Claim and Release Form ("Claim Form")
3 online at <https://www.bloomenergysettlement.com/> (the "Settlement Website"). Lead Counsel has
4 instructed Epiq to continue to mail copies of the Notice and/or Claim Form to Settlement Class
5 members on request until the deadline to submit a Claim Form has passed.

6 41. The Postcard Notice directed potential Settlement Class Members to downloadable
7 versions of the Notice and Claim Form posted online on the Settlement Website. The Notice
8 contains, among other things, a description of the Action; the definition of the Settlement Class; a
9 summary of the terms of the Settlement and the proposed Plan of Allocation; and a description of a
10 Settlement Class Member's right to participate in the Settlement, object to the Settlement, the Plan
11 of Allocation and/or the Fee Memorandum, or to exclude themselves from the Settlement Class.
12 The Notice also informs Settlement Class Members of Lead Counsel's intent to apply for an award
13 of attorneys' fees in an amount not to exceed 33% of the Settlement Fund, and for reimbursement
14 of Litigation Expenses in an amount not to exceed \$85,000.

15 42. Lead Counsel has communicated regularly with Epiq regarding the provision of
16 notice to the Settlement Class. As of January 31, 2024, notice has been disseminated to 67,333
17 potential Settlement Class Members and nominees.

18 43. On December 4, 2023, in accordance with the Preliminary Approval Order, the
19 Summary Notice was published in the *Investor's Business Weekly* and transmitted over *PR*
20 *Newswire*.

21 44. Lead Counsel also caused Epiq to establish the Settlement Website, which became
22 operational on or about November 30, 2023 to provide Settlement Class Members with information
23 concerning the Settlement, submit a claim online, download copies of the full Notice and Claim
24 Form, as well as copies of the Stipulation, and Preliminary Approval Order.

25 45. The deadline for Settlement Class Members to object to the Settlement, Plan of
26 Allocation, and/or to the Fee Memorandum or to request exclusion from the Settlement Class is
27 March 18, 2024. To date, no objections or requests for exclusion have been received. To date, no
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1 objections to the Settlement or the Plan of Allocation have been entered on this Court’s docket or
2 have otherwise been received by Lead Counsel. Lead Counsel will file reply papers by April 1,
3 2024 that will address any objections that may be received.

4 **V. ALLOCATION OF THE NET PROCEEDS OF THE SETTLEMENT**

5 46. Pursuant to the Preliminary Approval Order, and as set forth in the Notice, all
6 Settlement Class Members who want to participate in the distribution of the Net Settlement Fund
7 *i.e.*, the \$3,000,000 Settlement Amount, plus interest earned thereon less: (i) any Taxes; (ii) any
8 Notice and Administration Costs; (iii) any Litigation Expenses awarded by the Court; and (iv) any
9 attorneys’ fees awarded by the Court, must submit a valid Claim Form with all required information
10 postmarked no later than March 29, 2024. *See* Notice (Exhibit G hereto) at ¶7. As set forth in the
11 Notice, the Net Settlement Fund will be distributed among Settlement Class Members according to
12 the plan of allocation approved by the Court.

13 47. The Plan of Allocation is detailed in the long-form Notice. *Id.*, at ¶¶ 36-63. The full
14 Notice is posted online at the Settlement Website, is downloadable, and upon request, will be mailed
15 to any potential Settlement Class Member. The Plan of Allocation’s objective is to equitably
16 distribute the Net Settlement Fund to those Settlement Class Members who suffered economic losses
17 as a proximate result of the alleged violations of the Securities Act and Exchange Act, as opposed
18 to losses caused by market, industry, company-specific factors or factors unrelated to the alleged
19 violations of law, and takes into consideration when each Authorized Claimant purchased and/or
20 sold shares of Bloom Energy common stock.

21 48. As described in the Notice, calculations under the Plan of Allocation are not intended
22 to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been
23 able to recover after a trial or estimates of the amounts that will be paid to Authorized Claimants
24 pursuant to the Settlement. Instead, the calculations under the Plan of Allocation are a method to
25 weigh the claims of Settlement Class Members against one another for the purposes of making an
26 equitable allocation of the Net Settlement Fund. *Id.* at ¶¶ 47-79.

1 49. The Plan of Allocation is based on an out-of-pocket theory of damages consistent
2 with Section 11 of the Securities Act and Section 10b of the Exchange Act and reflects an assessment
3 of the damages that Plaintiffs contends could have been recovered under the theories of liability and
4 damages asserted in the Action. The Plan of Allocation is not a formal damage analysis but was
5 developed by Lead Counsel in consultation with its expert economic consultants. *Id.* at ¶ 48

6 50. Recognized loss amounts are based primarily on the price declines observed over the
7 period which Plaintiffs allege corrective information was entering the marketplace. *Id.* at ¶ 49. In
8 this case, Plaintiffs allege that Defendants made false statements and omitted material facts which
9 allegedly had the effect of artificially inflating the price of Bloom Energy common shares during
10 the Class Period. *Id.* Plaintiffs allege that later disclosures revealed to the market that Defendants'
11 previous statements had been false and/or materially misleading and, in turn, caused Bloom Energy
12 stock price to decline on November 6, 2018; September 17, 2019; February 13, 2020; and April 1,
13 2020. *Id.* Consequently, the plan of allocation uses the declines on these dates to determine each
14 Authorized Claimant's pro rata allocation. *Id.*, ¶¶ 49, 51.

15 51. Under the proposed Plan of Allocation, the Net Settlement Fund will be distributed
16 to Authorized Claimants on a pro rata basis based on the relative size of their Recognized Claims.
17 *Id.* at ¶52-55. Specifically, a "Distribution Amount" will be calculated for each Authorized
18 Claimant, which shall be the Authorized Claimant's Recognized Claim divided by the total
19 Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net
20 Settlement Fund. If any Authorized Claimant's Distribution Amount calculates to less than \$10.00,
21 it will not be included in the calculation and no distribution will be made to such Authorized
22 Claimant. *Id.* at ¶52-55.

23 52. An individual Claimant's recovery under the Plan of Allocation will depend on
24 several factors, including the number of valid claims filed by other Claimants and how many shares
25 of Bloom Energy common stock the Claimant purchased, acquired, or sold during the Settlement
26 Class Period and when that Claimant bought, acquired, or sold the shares. Lead Counsel believes
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1 that the Plan of Allocation will result in a fair and equitable distribution of the Net Settlement Fund
2 among Settlement Class Members who submit valid claims.

3 53. The Net Settlement Fund in its entirety will be distributed to Authorized Claimants
4 and if any funds remain after the initial distribution (for example, due to uncashed or returned
5 checks), further distributions to Authorized Claimants who would receive at least \$10.00 from such
6 a re-distribution will be conducted as long as they are cost effective. If Lead Counsel, in
7 consultation with the Claims Administrator, deems a further distribution not cost effective, the Court
8 has preliminary approved the Bay Area Financial Education Foundation as the *cy pres* recipient of
9 any residual funds that may remain.

10 54. In sum, the Plan of Allocation was designed to allocate the proceeds of the Net
11 Settlement Fund among Settlement Class Members based on the losses they suffered on transactions
12 in Bloom Energy common stock that were attributable to the conduct alleged in the Complaint.
13 Accordingly, Lead Counsel respectfully submits that the Plan of Allocation is fair and reasonable
14 and should be approved by the Court.

15 **VI. LEAD COUNSEL'S REQUEST FOR ATTORNEYS' FEES AND**
16 **REIMBURSEMENT OF LITIGATION EXPENSES**

17 55. In addition to seeking final approval of the Settlement and Plan of Allocation, Lead
18 Counsel is applying to the Court for an award of attorneys' fees of 30% of the Settlement Fund (or
19 \$900,000, plus interest earned at the same rate as the Settlement Fund). Lead Counsel also requests
20 reimbursement of the out-of-pocket expenses that they incurred in connection with the prosecution
21 of the Action from the Settlement Fund in the amount of \$85,000. Moreover, the requested fee award
22 is consistent with recently granted attorneys' fee awards in similarly complex, contingent litigations
23 in the Ninth Circuit. *See* Exhibit E filed hereto (collecting Ninth Circuit cases with 33% or higher
24 fee awards in complex, contingent litigations). The primary factual bases for the requested fee and
25 reimbursement of Litigation Expenses are summarized below.

1 **A. The Fee Application**

2 56. Lead Counsel is applying for a percentage of the common fund fee award to
3 compensate Lead Counsel for the services they rendered on behalf of the Settlement Class. As set
4 forth in the accompanying Fee Memorandum, the percentage method is the best method for
5 determining a fair attorneys' fee award, because unlike the lodestar method, it aligns the lawyers'
6 interest with that of the Settlement Class in achieving the maximum recovery. The lawyers are
7 motivated to obtain the maximum recovery in the shortest amount of time required under the
8 circumstances. This paradigm minimizes unnecessary drain on the Court's resources. Notably, the
9 percentage of the fund method has been recognized as appropriate by the Supreme Court and Ninth
10 Circuit for cases of this nature.

11 57. Based on the quality of the result achieved, the extent and quality of the work
12 performed, the significant risks of the litigation, and the fully contingent nature of the representation,
13 Lead Counsel respectfully submit that the requested fee award is fair and reasonable and should be
14 approved. As discussed in the Fee Memorandum, a 30% fee award is well within the range of
15 percentages awarded in securities class actions with comparable settlements.

16 **1. The Excellent Outcome Achieved is the Result of the Significant Time**
17 **and Labor that Lead Counsel Devoted to the Action**

18 58. Lead Counsel was involved in all aspects of the Action and its settlement as set forth
19 above.

20 59. In accordance this District's Procedural Guidance for Class Action Settlements,
21 included as Exhibit A to this declaration is a schedule summarizing the hours by category and
22 lodestar of each attorney from the inception of the case through and including January 31, 2024.
23 Time expended in preparing the application for fees and reimbursement of expenses has not been
24 included.

25 60. The summary contained in Exhibit A is breaks down into five categories the amount
26 of time spent by attorneys of my firm who, from inception of the Action through and including
27 January 31, 2024, billed twenty or more hours to the Action, and the lodestar calculation for those
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1 individuals based on my firm's current billing rates. The schedule was prepared from
2 contemporaneous daily time records regularly prepared and maintained by my firm.

3 61. Attached as Exhibit B is a summary of the principal tasks undertaken by each
4 attorney whose time is included on Exhibit A. Additionally, I have included a summary of expenses
5 by category as Exhibit C, and a firm resume as Exhibit D.

6 62. As set forth above and in detail in the attached exhibits, Lead Counsel has expended
7 approximately 2,929.4 hours in the investigation and prosecution of the Action. The resulting total
8 lodestar is \$1,793,118.50. The current hourly rates for Lead Counsel range from \$900 to \$1,000 for
9 partners, \$500 to \$675 for associates, \$475 for staff attorneys, and \$325 for paralegals. Lead
10 Counsel's rates for its partners, of counsel attorneys, and associates are also comparable to peer
11 plaintiff and defense firms litigating matters of similar magnitude. *See* Exhibit F hereto. Additional
12 counsel Hagens Berman Sobol Shapiro LLP has incurred time and expenses in the prosecution of
13 this matter resulting in 525.3 hours and a lodestar of \$393,055, the majority of which was spent
14 reviewing and editing pleadings, and motions, as well as communicating with the clients. The
15 requested fee of \$900,000 (plus interest earned at the same rate as the Settlement Fund) therefore
16 represents a multiplier of approximately 0.50x to Lead Counsel's lodestar, and, therefore, will
17 provide a substantial discount in the hourly fees they incurred.

18 63. As detailed above, throughout this case, Lead Counsel devoted substantial time to
19 the prosecution of the Action. I maintained control of and monitored the work performed by lawyers
20 and other personnel on this case. I personally devoted substantial time to this case and was
21 personally involved in reviewing and editing all pleadings, court filings, and other correspondence
22 prepared on behalf of Plaintiffs, engaging with counsel for Defendants on a variety of matters, and
23 was intimately involved in Settlement negotiations. Other experienced attorneys at the firms also
24 drafted, reviewed and/or edited pleadings, court filings, and other correspondence prepared on
25 behalf of Plaintiffs and were involved in Settlement negotiations and other matters. More junior
26 attorneys and paralegals also worked on matters appropriate to their skill and experience level.

1 Throughout the litigation, Lead Counsel maintained an appropriate level of staffing that avoided
2 unnecessary duplication of effort and ensured the efficient prosecution of this litigation.

3 64. As demonstrated by Lead Counsel's resume, attached hereto as Exhibit D, Lead
4 Counsel is a highly experienced and skilled law firm that focuses its practices on securities class
5 action litigation. Indeed, Lead Counsel has substantial experience in litigating securities fraud class
6 actions and has negotiated scores of other class settlements, which have been approved in courts
7 throughout the country. I believe Lead Counsel's experience added valuable leverage in the
8 settlement negotiations.

9 **2. Standing and Caliber of Opposing Counsel**

10 65. The quality of work performed by Lead Counsel in attaining the Settlement should
11 also be evaluated in light of the quality of the opposition. Here, Defendants were represented by
12 Sidley Austin LLP and Morgan, Lewis, & Bockius LLP, very prominent law firms with national
13 reputations for the tenacious defense of class actions and other complex civil matters. In the face
14 of this experienced and formidable opposition, Lead Counsel was able to develop a case that was
15 sufficiently strong to nonetheless persuade Defendants to settle the case on terms that were favorable
16 to the Settlement Class.

17 **3. The Risks of Litigation and the Need to Ensure the Availability of
18 Competent Counsel in High-Risk Contingent Securities Cases**

19 66. This prosecution was undertaken by Lead Counsel on an entirely contingent-fee
20 basis. From the outset, this Action was an especially difficult and highly uncertain securities case.
21 There was no guarantee that Lead Counsel would ever be compensated for the substantial
22 investment of time and money the case would require. In undertaking that responsibility, Lead
23 Counsel was obligated to ensure that sufficient resources were dedicated to the prosecution of the
24 Action, that funds were available to compensate attorneys and staff, and to cover the considerable
25 litigation costs required by a case like this one. With an average lag time of many years for complex
26 cases like this to conclude, the financial burden on contingent-fee counsel is far greater than on a
27 firm that is paid on an ongoing basis. Indeed, Lead and Additional Counsel received no
28

1 compensation during the course of the Action and have incurred \$85,453.26 in out-of-pocket
2 litigation-related expenses in prosecuting the Action.

3 67. Lead Counsel also bore the risk that no recovery would be achieved. As discussed
4 above, from the outset, this case presented multiple risks and uncertainties that could have prevented
5 any recovery whatsoever. Despite the most vigorous and competent of efforts, success in
6 contingent-fee litigation like this is never assured. Lead Counsel knows from personal experience
7 that despite the most vigorous and competent of efforts, success in contingent litigation is never
8 assured.

9 68. Lead Counsel's extensive efforts in the face of substantial risks and uncertainties
10 have resulted in a significant recovery for the benefit of the Settlement Class. In circumstances such
11 as these, and in consideration of the hard work and the result achieved, I respectfully submit that the
12 requested fee is reasonable and should be approved.

13 **4. The Reaction of the Settlement Class to the Fee Request.**

14 69. As noted above, as of January 31, 2024, notice has been disseminated to 67,333
15 potential Settlement Class Members and nominees, which advised potential Settlement Class
16 Members that Lead Counsel would apply for an award of attorneys' fees in an amount not to exceed
17 33% of the Settlement Fund. In addition, the Court-approved Summary Notice has been
18 published in the *Investor's Business Weekly* and transmitted over *PR Newswire* on December 4,
19 2023. To date, no objections to the maximum potential attorneys' fees request set forth in the
20 Postcard Notice, Summary Notice, and the long-form Notice have been received by Lead Counsel
21 or entered on this Court's docket. The deadline to object is March 18, 2024. Any objections
22 received after the date of this filing will be addressed in Lead Counsel's reply papers to be filed by
23 April 1, 2024.

24 70. In sum, Lead Counsel accepted this case on a contingency basis, committed
25 significant resources to it, and prosecuted it without any compensation or guarantee of success.

26 71. Based on the result obtained, the quality of the work performed, the risks of the
27 Action, and the contingent nature of the representation, I respectfully submit that a fee award of
28

1 30% (\$900,000) which equates to a fractional multiplier of 0.50x (excluding additional counsel), is
2 fair and reasonable, and is supported by the fee awards courts in this Circuit and others have granted
3 in other comparable cases.

4 **B. Reimbursement of the Requested Litigation Expenses is Fair and Reasonable**

5 72. Lead and Additional Counsel are seeking reimbursement of a total of \$85,000 in out-
6 of-pocket costs and expenses.

7 73. A breakdown by category of these expenses is presented in Exhibit C.

8 74. The Postcard Notice, Summary Notice, and long-form Notice informed potential
9 Settlement Class Members that Lead Counsel would be seeking reimbursement of expenses in an
10 amount not to exceed \$85,000. The total amount requested by Lead Counsel, \$85,000, is below the
11 \$85,453.26 amount that Lead and Additional Counsel have spent. To date, no objections have been
12 raised as to the maximum amount of expenses set forth in the Postcard Notice, Summary Notice,
13 and long-form Notice. If any objection to the request for reimbursement of Litigation Expenses is
14 made after the date of this filing, Lead Counsel will address it in their reply papers.

15 75. From the beginning of the case, Lead Counsel was aware that they might never
16 recover any of their expenses. Lead Counsel also understood that, even assuming the case was
17 ultimately successful, reimbursement for expenses would not compensate them for the lost use of
18 funds advanced to prosecute this Action. Accordingly, Lead Counsel were motivated to, and did,
19 take steps to assure that only necessary expenses were incurred for the vigorous and efficient
20 prosecution of the case.

21 76. The large component of expenses, \$25,785 of the total expenses, was expended on
22 experts in connection with this matter. Plaintiffs' allegations included complex accounting claims
23 that involved the lease of Bloom's Energy servers. Additionally, as stated above, Defendants had
24 strong causation defenses. Plaintiffs engaged a damages expert to assist them with their allegations
25 as well as the plan of allocation. These expenses were reasonable and necessary.

26 77. Another large component of expenses, \$14,873.90 of the total expenses, was for
27 hosting documents received during discovery from parties and non-parties.

1 78. Another large component of expenses, \$9,810.00 of the total expenses, was in order
2 to give notice to potential class members of the pendency of the lawsuit.

3 79. Another large component of expenses, \$10,092.70 of the total expenses, was
4 expended on travel and meals to and from hearings, including the hearings on the NDA and Class
5 Certification, as well as the deposition of Jim Hunt.

6 80. Another large component of expenses, \$7,500 of the total expenses, was expended
7 on mediation fees.

8 81. The other Litigation Expenses for which Lead Counsel seek reimbursement are the
9 types of expenses that are necessarily incurred in litigation and routinely charged to clients billed
10 by the hour. These Litigation Expenses include, among others, travel, costs of court fees, copying
11 costs, research, and postage and delivery expenses.

12 82. In my opinion, the Litigation Expenses incurred by Lead Counsel and Lead Plaintiff
13 were reasonable and necessary to represent the Settlement Class and achieve the Settlement.
14 Accordingly, Lead Counsel respectfully submit that the Litigation Expenses should be reimbursed
15 in full from the Settlement Fund.

16 **VII. CONCLUSION**

17 83. For all the reasons set forth above, I respectfully submit that the Settlement and Plan
18 of Allocation should be approved as fair, reasonable, and adequate. I further submit that the
19 requested attorneys' fee in the amount of 30% of the Settlement Amount, \$900,000 should be
20 approved as fair and reasonable, and the request for reimbursement of \$85,000 in Litigation
21 Expenses should also be approved.

22 I declare under penalty of perjury under the laws of the United States of America that the
23 foregoing facts are true and correct.

24 Executed this 1st day of February 2024.

25
26 

27 NICHOLAS I. PORRITT

EXHIBIT A

Roberts v. Bloom Energy Corporation et al.
Case No.: 4:19-cv-02935-HSG

Levi & Korsinsky, LLP

**LODESTAR REPORT
FROM INCEPTION THROUGH JANUARY 31, 2024**

TIMEKEEPER			HOURS BY CATEGORY						
ATTORNEYS	TITLE	RATE	01	02	03	04	05	SUM	LODESTAR
Nicholas I. Porritt	Partner	\$1,000	12	47.5	111.5	11.9	59	241.9	\$241,900
Adam M. Apton	Partner	\$900	0	62.7	53.2	1	11	127.9	\$115,110
Adam McCall	Senior Associate	\$600	21.2	345.2	590.2	282.8	340.6	1580	\$948,000
Alexander Krot	Associate	\$675	102.7	3.5	3	3.2	0.2	112.6	\$76,005
Max Weiss	Associate	\$500	0	24.2	15.3	251.6	47.3	323.1	\$161,550
Colin Brown	Staff Attorney	\$475	0	0	0	366.4	0	366.4	\$174,040
Tatyana Grubnik	Staff Attorney	\$475	0	125.5	0	0	0	125.5	\$59,613
Gaynor Mugar	Paralegal	\$325	0	0	0	0	25.7	25.7	\$8,353
Jenn King	Paralegal	\$325	.7	1.5	0	23.6	0.5	26.3	\$8,548
TOTAL LODESTAR			136.6	610.1	757.9	940.5	484.3	2929.4	\$1,793,118

CATEGORY KEY:

01. INITIAL INVESTIGATION & LEAD PLAINTIFF APPOINTMENT

02. PREPARATION OF COMPLAINTS & FACTUAL INVESTIGATION

03. RESEARCH, BRIEFING AND HEARINGS RE:
MOTIONS TO DISMISS, MOTIONS TO APPEAL, MOTION
FOR JUDGMENT, CMC, NDA DISPUTE, AND CLASS
CERTIFICATION

04. PARTY AND NON-PARTY DISCOVERY

05. MEDIATION AND MISC. COURT FILINGS, INCLUDING BUT NOT
LIMITED TO, SETTLEMENT DOCUMENTS, STIPULATIONS, STATUS
UPDATES, ETC.

EXHIBIT B

Roberts v. Bloom Energy Corporation et al.
Case No.: 4:19-cv-02935-HSG

Levi & Korsinsky, LLP

Summary of Work By Attorney or Paraprofessional

PARTNERS

Nicholas I. Porritt (241.9 hours): Mr. Porritt was the partner responsible for overseeing the case. Mr. Porritt was primarily responsible for reviewing and editing the complaints, motion briefing including the motions to dismiss and class certification, as well as reviewing and editing the mediation statements. This entailed extensive preparation and research into Lead Plaintiff's allegations and applicable case law. Mr. Porritt also argued the preliminary approval motion, lead plaintiff motion, and handled settlement negotiations with Defendants and the mediation sessions.

Adam M. Apton (127.9 hours): Mr. Apton was primarily responsible for handling the NDA dispute, including briefing and oral argument. Mr. Apton also assisted in the review and editing of the Complaints, oppositions to the motions to dismiss, and the motion for class certification.

SENIOR ASSOCIATE

Adam C. McCall (1580.0 hours): Mr. McCall was the senior associate responsible for running the case day to day. Mr. McCall drafted the two complaints, including factual investigation and work with experts and investigators, oppositions to the motions to dismiss, motion for class certification and reply brief, motion for entry of judgment and reply, motion for interlocutory appeal and reply, mediation statement and reply brief (including the review of documents received in discovery re: same), and drafted and negotiated the settlement papers, including work with Plaintiffs' damage expert on the plan of allocation. Mr. McCall was also responsible for overseeing the discovery team, drafting discovery requests, and overseeing third party discovery. Mr. McCall also argued the class certification motion, defended the deposition of Lead Plaintiff, and attended the full day mediation. Mr. McCall was also responsible for communications with clients.

ASSOCIATES

Alexander A Krot III (112.6 hours): Mr. Krot was primarily involved in the initial investigation of potential claims and the motion for the appointment of the Lead Plaintiff and Levi & Korsinsky as Lead Counsel.

Max Weiss (323.1 hours): Mr. Weiss primarily worked on the drafting and negotiation of third-party discovery. This included serving 49 non-party subpoenas on Bloom's customers and other relevant parties. Mr. Weiss also attended the deposition of Lead Plaintiff.

1 **STAFF ATTORNEYS**

2 **Colin Brown** (366.4 hours): Mr. Brown was primarily responsible for the review of documents
3 received during discovery, as well as drafting discovery-related memorandum.

4 **Tatyana Grubnik** (125.5 hours): Ms. Grubnik primarily worked on factual investigations into the
5 Complaints.

6 **PARALEGALS**

7 **Gaynor Mugar** (25.7 hours): Ms. Mugar was primarily responsible for the preparation of
8 materials for hearings as well as printing and postage.

9 **Jenn King** (26.3 hours): Mrs. King was primarily responsible for client outreach, as well as
10 discovery hosting communications and tasks.

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EXHIBIT C

Roberts v. Bloom Energy Corporation et al.
Case No.: 4:19-cv-02935-HSG

Levi & Korsinsky, LLP

EXPENSE REPORT

FROM INCEPTION THROUGH JANUARY 31, 2024

ITEM	AMOUNT
INVESTIGATIONS	\$3,968.75
CLASS ACTION NOTICES TO SHAREHOLDERS	\$9,810.00
EXPERTS FOR ACCOUNTING AND DAMAGES	\$25,785.00
TRAVEL AND MEALS	\$10,092.70
COURIER, PROCESS SERVER, SPECIAL POSTAGE, AND PRINTING	\$7,681.14
RESEARCH FEES	\$3,582.24
DOCUMENT HOSTING	\$14,873.90
MEDIATION FEES	\$7,500.00
FILING FEES AND COURT REPORTER	\$2,159.53
GRAND TOTAL	\$85,453.26

EXHIBIT D
Levi & Korsinsky, LLP
FIRM RESUME

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Firm Resume

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About The Firm

Practice Areas

Securities Fraud Class Actions

Derivative, Corporate Governance & Executive Compensation

Mergers & Acquisitions

Consumer Litigation

Our Attorneys

Managing Partners

- EDUARD KORSINSKY
 - JOSEPH E. LEVI
-

Partners

- ADAM M. APTON
 - DONALD J. ENRIGHT
 - SHANNON L. HOPKINS
 - GREGORY M. NESPOLE
 - GREGORY M. POTREPKA
 - NICHOLAS I. PORRITT
 - MARK S. REICH
 - DANIEL TEPPER
 - ELIZABETH K. TRIPODI
-

Counsel

- ANDREW E. LENCYK
 - COURTNEY E. MACCARONE
 - BRIAN STEWART
-

Our Attorneys

Senior Associates

- JORDAN A. CAFRITZ
 - MORGAN EMBLETON
 - DAVID C. JAYNES
 - ADAM C. MCCALL
 - CORREY A. SUK
-

Associates

- RACHEL BERGER
 - AMANDA FOLEY
 - NOAH GEMMA
 - DEVYN R. GLASS
 - GARY ISHIMOTO
 - ALEXANDER KROT
 - NICHOLAS LANGE
 - MELISSA MEYER
 - CINAR ONEY
 - COLE VON RICHTHOFEN
 - MAX WEISS
 - AARON PARNAS
-

Staff Attorneys

- KATHY AMES-VALDIVIESO
- KAROLINA CAMPBELL
- CHRISTINA FUHRMAN
- RUBEN MARQUEZ
- COLIN BROWN
- LEAH FARRAR

Levi & Korsinsky, LLP is a national law firm with decades of combined experience litigating complex securities, class, and consumer actions in state and federal courts throughout the country. Our main office is located in New York City and we also maintain offices in Connecticut, California, and Washington, D.C.

We represent the interests of aggrieved shareholders in class action and derivative litigation through the vigorous prosecution of corporations that have committed securities fraud and boards of directors who have breached their fiduciary duties. We have served as Lead and Co-Lead Counsel in many precedent-setting litigations, recovered hundreds of millions of dollars for shareholders via securities fraud lawsuits, and obtained fair value, multi-billion dollar settlements in merger transactions.

We also represent clients in high-stakes consumer class actions against some of the largest corporations in America. Our legal team has a long and successful track record of litigating high-stakes, resource-intensive cases and consistently achieving results for our clients.

Our attorneys are highly skilled and experienced in the field of securities class action litigation. They bring a vast breadth of knowledge and skill to the table and, as a result, are frequently appointed Lead Counsel in complex shareholder and consumer litigations in various jurisdictions. We are able to allocate substantial resources to each case, reviewing public documents, interviewing witnesses, and consulting with experts concerning issues particular to each case. Our attorneys are supported by exceptionally qualified professionals including financial experts, investigators, and administrative staff, as well as cutting-edge technology and e-discovery systems. Consequently, we are able to quickly mobilize and produce excellent litigation results. Our ability to try cases, and win them, results in substantially better recoveries than our peers.

We do not shy away from uphill battles – indeed, we routinely take on complex and challenging cases, and we prosecute them with integrity, determination, and professionalism.



Practice Areas

- Securities Fraud Class Actions
- Derivative, Corporate Governance & Executive Compensation
- Mergers & Acquisitions
- Consumer Litigation



Securities Class Action

Over the last four years, Levi & Korsinsky has been lead, or co-lead counsel in 35 separate settlements that have resulted in nearly \$200 million in recoveries for shareholders. During that time, Levi & Korsinsky has consistently ranked in the Top 10 in terms of number of settlements achieved for shareholders each year, according to reports published by ISS. In Lex Machina's Securities Litigation Report, Levi & Korsinsky ranked as one of the Top 5 Securities Firms for the period from 2018 to 2020. Law360 dubbed the Firm one of the "busiest securities firms" in what is "on track to be one of the busiest years for federal securities litigation" in 2018. In 2019, Lawdragon Magazine ranked multiple members of Levi & Korsinsky among the 500 Leading Plaintiff Financial Lawyers in America. Our firm has been appointed Lead Counsel in a significant number of class actions filed in both federal and state courts across the country.

In **In re Tesla Inc. Securities Litigation**, No. 3:18-cv-4865-EMC (N.D. Cal.), the firm represents a certified class of Tesla investors who sustained damages when Elon Musk tweeted "Am considering taking Tesla private at \$420. Funding secured," on August 7, 2018. In a monumental win for the class, our attorneys successfully obtained partial summary judgment against Mr. Musk on

the issues of falsity and scienter, meaning that trial will primarily focus on damages, which are presently estimated to be well in excess of \$2 billion.

In **In re U.S. Steel Consolidated Cases**, No. 2:17-579-CB (W.D. Pa.), the firm represents a certified class of U.S. Steel investors who sustained damages in connection with the company's false and materially misleading statements about its Carnegie Way initiative.

In two related actions, **In re Nutanix, Inc. Securities Litigation**, No. 3:19-cv-01651-WHO (the "Stock Case") and **John P. Norton, on Behalf of the Norton Family Living Trust UAD 11/15/2002 v. Nutanix, Inc., et. al.**, No. 3:21-cv-04080-WHO (the "Options Case") Levi & Korsinsky achieved a settlement providing for the payment of \$71 million to eligible class members. Lead Plaintiff of the Stock Case, California Ironworkers Field Pension Trust, and Lead Plaintiff of the Options Case, John P. Norton, alleged violations of §§ 10(b) and 20(a) of the Securities Exchange Act of 1934 based on false and misleading misstatements that the company made that allegedly concealed from shareholders its rapidly declining sales pipeline, revenue, and billings.



Securities Class Action

As Lead Counsel in **In re Avon Products Inc. Securities Litigation**, No. 1:19-cv-1420-MKV (S.D.N.Y.), having been commenced in the U.S. District Court for the Southern District of New York, the Firm achieved a \$14.5 million cash settlement to successfully end claims alleged by a class of investors that the beauty company loosened its recruiting standards in its critical market in Brazil, eventually causing the company's stock price to crater. The case raised important issues concerning the use of confidential witnesses located abroad in support of scienter allegations and the scope of the attorney work product doctrine with respect to what discovery could be sought of confidential sources who are located in foreign countries.

In **Rougier v. Applied Optoelectronics, Inc.**, No. 4:17-cv-2399-GHC-CAB (S.D. Tex.), the Firm served as sole Lead Counsel, prevailed against Defendants' Motion to Dismiss, and achieved class certification before the Parties reached a settlement. The Court granted final approval of a \$15.5 million settlement on November 24, 2020.

“Plaintiffs’ selected Class Counsel, the law firm of Levi & Korsinsky, LLP, has demonstrated the zeal and competence required to adequately represent the interests of the Class. The attorneys at Levi & Korsinsky have experience in securities and class actions issues and have been appointed lead counsel in a significant number of securities class actions across the country.”

The Honorable Christina Bryan in *Rougier v. Applied Optoelectronics, Inc.*, No. 4:17-cv-02399-GHC-CAB (S.D. Tex. Nov. 13, 2019)

In **In Re Helios and Matheson Analytics, Inc. Sec. Litig.**, No. 1:18-cv-6965-JGK (S.D.N.Y.), the Firm served as sole Lead Counsel. Although the company had filed a voluntary Bankruptcy petition for liquidation and had numerous creditors (including private parties and various state and federal regulatory agencies), the Firm was able to reach a settlement. The settlement was obtained at a time when a motion to dismiss filed by the defendants was still pending and a risk to the Class. In its role as Lead Counsel, the Firm achieved a settlement of \$8.25 million on behalf of the class. The Court granted final approval of the settlement on May 13, 2021.



Securities Class Action

In **In re Restoration Robotics, Inc. Sec. Litig.**, No. 5:18-cv-3712-EJD (N.D. Cal.), the Firm was sole Lead Counsel and achieved a settlement of \$4,175,000 for shareholders.

In **Kirkland, et al. v. WideOpenWest, Inc.**, et al., Index No. 653248/2018 (N.Y. Sup.) the Firm was Co-Lead Counsel and achieved a settlement of \$7,025,000 for shareholders.

In **Stein v. U.S. Xpress Enterprises, Inc.**, et al., No. 1:19-cv-98-TRM-CHS (E.D. Tenn.), the Firm is Co-Lead Counsel representing a certified class of USX investors and has prevailed on a Motion to Dismiss. The class action is in the early stages of discovery and shareholders stand to recover damages in connection with an Initial Public Offering.

“I find the firm to be well-qualified to serve as Lead Counsel.”

The Honorable Andrew L. Carter, Jr. In *Snyder v. Baozun Inc.*, No. 1:19-cv-11290-ALC-KNF (S.D.N.Y. Sept. 8, 2020)



Securities Class Action

Appointed Lead or Co-Lead Counsel in the following securities class actions:

- **Ragan v. Farfetch Limited, et al.,**
8:23-cv-2857-MJM (D. Md. January 19, 2024)
- **Gurevitch v. KeyCorp et al.,**
1:23-cv-01520-DCN (N.D. Ohio December 26, 2023)
- **Lowe v. Tandem Diabetes Care, Inc. et al.,**
3:23-cv-01657-H-BLM (S.D. Cal. December 5, 2023)
- **Perez v. Target Corporation et al.,**
0:23-cv-00769-PJS-TNL (D. Minn. November 13, 2023)
- **Thant v. Rain Oncology Inc. et al.,**
5:23-cv-03518-EJD (N.D. Cal. November 1, 2023)
- **Villanueva v. Proterra Inc. et al.,**
No. 5:23-cv-03519-BLF (N.D. Cal. October 23, 2023)
- **Martin v. BioXcel Therapeutics, Inc. et al.,**
No. 3:23-cv-00915-SVN (D. Conn. October 4, 2023)
- **Scott Petersen v. Stem, Inc., et al.,**
No. 3:23-cv-02329-MMC (N.D. Cal. August 22, 2023)
- **Solomon v. Peloton Interactive, Inc. et al.,**
No. 1:23-cv-04279-MKB-JRC (E.D.N.Y. September 7, 2023)

“ In appointing the Firm Lead Counsel, the Honorable Analisa Torres noted our “extensive experience” in securities litigation.

White Pine Invs. v. CVR Ref., LP, No. 1:20-CV-2863-AT
(S.D.N.Y. Jan. 5, 2021)

- **Thant v. Veru, Inc., et al.,**
No. 1:22-cv-23960-KMW (S.D. Fla. July 27, 2023)
- **Zhang V. Gaotu Techedu Inc., et al.,**
No. 1:22-cv-07966-PKC-CLP (E.D.N.Y. July 16, 2023)
- **Jaramillo v. Dish Network Corporation, et al.,**
No. 1:23-cv-00734-GPG-SKC (D. Colo. July 16, 2023)
- **Howard M. Rensin, Trustee Of The Rensin Joint Trust v. United States Cellular Corporation, et al.,**
No. 1:23-cv-02764-MMR (N.D. Ill. July 11, 2023)
- **Holland v. Rite Aid Corporation, et al.,**
No. 23-cv-589 (N.D. Ohio June 22, 2023)
- **Baylor v. Honda Motor Co., Ltd., et al.,**
No. 2:23-cv-00794-GW-AGR (C.D. Cal. May 8, 2023)
- **Olsson v. PLDT Inc. et al.,**
No. 2:23-cv-00885-CJC-MAA (C.D. Cal. April 26, 2023)
- **Ryan v. FIGS, Inc. et al.,**
No. 2:22-cv-07939-ODW (C.D. Cal. February 14, 2023)



Securities Class Action

- **Schoen v. Eiger Biopharmaceuticals, Inc., et al.,**
No. 3:22-cv-6985-RS (N.D. Cal. February 3, 2023)
- **Fernandes v. Centessa Pharmaceuticals plc, et al.,**
No. 1:22-cv-08805-GHW-SLC (S.D.N.Y. December 12, 2022)
- **Gilbert v. Azure Power Global Limited, et al.,**
No. 1:22-cv-07432-GHW (S.D.N.Y. December 8, 2022)
- **Pugley v. Fulgent Genetics, Inc. et al.,**
No. 2:22-cv-06764-CAS-KLS (C.D. Cal. November 30, 2022)
- **Michalski v. Weber Inc., et al.,**
No. 1:22-cv-03966-EEB (N.D. Ill. November 29, 2022)
- **Edge v. Tupperware Brands Corporation, et al.,**
No. 6:22-cv-1518-RBD-LHP (M.D. Fla. September 16, 2022)
- **Carpenter v. Oscar Health, Inc., et al.,**
No. 1:22-cv-03885-VSB-VF (S.D.N.Y. September 27, 2022)
- **In re Nano-X Imaging Ltd. Securities Litigation,**
No. 1:20-cv-04355-WFK-MMH (E.D.N.Y. August 30, 2022)

“I find the firm to be well-qualified to serve as Lead Counsel.”

The Honorable Andrew L. Carter, Jr. In *Snyder v. Baozun Inc.*, No. 1:19-CV-11290 (S.D.N.Y. Sept. 8, 2020)

- **Patterson v. Cabaletto Bio, Inc., et al.,**
No. 2:22-cv-00737-JMY (E.D. Pa. August 10, 2022)
- **Rose v. Butterfly Network, Inc., et al.,**
No. 2:22-cv-00854-MEF-JBC (D.N.J. August 8, 2022)
- **Winter v. Stronghold Digital Mining, Inc., et al.,**
No. 1:22-cv-03088-RA (S.D.N.Y. August 4, 2022)
- **Poirer v. Bakkt Holdings, Inc.,**
No. 1:22-cv-02283-EK-PK (E.D.N.Y. August 3, 2022)
- **In re Meta Materials Inc. Securities Litigation,**
No. 1:21-cv-07203-CBA-JRC (E.D.N.Y. July 15, 2022)
- **Deputy v. Akebia Therapeutics, Inc. et al.,**
No. 1:22-cv-01411-AMD-VMS (E.D.N.Y. June 28, 2022)
- **In re Grab Holdings Limited Securities Litigation,**
No. 1:22-cv-02189-JLR (S.D.N.Y. June 7, 2022)
- **Jiang v. Bluecity Holdings Limited et al.,**
No. 1:21-cv-04044-FB-CLP (E.D.N.Y. December 22, 2021)



Securities Class Action

- **In re AppHarvest Securities Litigation**,
No. 1:21-cv-07985-LJL (S.D.N.Y. December 13, 2021)
- **In re Coinbase Global, Inc. Securities Litigation**,
No. 3:21-cv-05634-TLT (N.D. Cal. November 5, 2021)
- **Miller v. Rekor Systems, Inc. et al.**,
No. 1:21-cv-01604-GLR (D. Md. September 16, 2021)
- **Zaker v. Ebang International Holdings Inc. et al.**,
No. 1:21-cv-03060-KPF (S.D.N.Y. July 21, 2021)
- **Valdes v. Kandi Technologies Group, Inc. et al.**,
No. 2:20-cv-06042-LDH-AYS (E.D.N.Y. April 20, 2021)
- **John P. Norton, On Behalf Of The Norton Family Living Trust UAD 11/15/2002 V. Nutanix, Inc. Et Al**,
No. 3:21-cv-04080-WHO (N.D. Cal. September 8, 2021)
- **The Daniels Family 2001 Revocable Trust v. Las Vegas Sands Corp., et al.**,
No. 1:20-cv-08062-JMF (D. Nev. Jan. 5, 2021)
- **In re QuantumScape Securities Class Action Litigation**,
No. 3:21-cv-00058-WHO (N.D. Cal. April 20, 2021)
- **In re Minerva Neurosciences, Inc. Sec. Litig.**,
No. 1:20-cv-12176-GAO (D. Mass. March 5, 2021)

“Class Counsel have demonstrated that they are skilled in this area of the law and therefore adequate to represent the Settlement Class as well.”

The Honorable Barry Ted Moskowitz in *In re Regulus Therapeutics Inc. Sec. Litig.*, No. 3:17-CV-182-BTM-RBB (S.D. Cal. Oct. 30, 2020)

- **White Pine Investments v. CVR Refining, LP, et al.**,
No. 1:20-cv-02863-AT (S.D.N.Y. Jan. 5, 2021)
- **Yaroni v. Pintec Technology Holdings Limited, et al.**,
No. 1:20-cv-08062-JMF (S.D.N.Y. Dec. 15, 2020)
- **Nickerson v. American Electric Power Company, Inc., et al.**,
No. 2:20-cv-04243-SDM-EPD (S.D. Ohio Nov. 24, 2020)
- **Ellison v. Tufin Software Technologies Ltd., et al.**,
No. 1:20-cv-05646-GHW (S.D.N.Y. Oct. 19, 2020)
- **Hartel v. The GEO Group, Inc., et al.**,
No. 9:20-cv-81063-RS-SMM (S.D. Fla. Oct. 1, 2020)
- **Posey v. Brookdale Senior Living, Inc., et al.**,
No. 3:20-cv-00543-AAT (M.D. Tenn. Sept. 14, 2020)



Securities Class Action

- **Snyder v. Baozun Inc.,**
No. 1:19-cv-11290-ALC-KNF (S.D.N.Y. Sept. 8, 2020)
- **Mehdi v. Karyopharm Therapeutics Inc.,**
No. 1:19-cv-11972-NMG (D. Mass. Apr. 29, 2020)•
- **Brown v. Opera Ltd.,**
No. 1:20-cv-00674-JGK (S.D.N.Y. Apr. 17, 2020)
- **In re Dropbox Sec. Litig.,**
No. 5:19-cv-06348-BLF-SVK (N.D. Cal. Jan. 16, 2020)
- **In re Yunji Inc. Sec. Litig.,**
No. 1:19-cv-6403-LDH-RML (E.D.N.Y. Feb. 3, 2020)
- **Zhang v. Valaris plc,**
No. 1:19-cv-7816-NRB (S.D.N.Y. Dec. 23, 2019)
- **In re Sundial Growers Inc. Sec. Litig.,**
No. 1:19-cv-08913-ALC-SN (S.D.N.Y. Dec. 20, 2019)
- **Costanzo v. DXC Technology Co.,**
No. 5:19-cv-05794-BLF-VKD (N.D. Cal. Nov. 20, 2019)
- **Ferraro Family Foundation, Inc. v. Corcept Therapeutics Incorporated,**
No. 5:19-cv-1372-LHK-SVK (N.D. Cal. Oct. 7, 2019)
- **Roberts v. Bloom Energy Corp.,**
No. 4:19-cv-02935-HSG (N.D. Cal. Sept. 3, 2019)

“ Vice Chancellor Sam Glasscock, III said “it’s always a pleasure to have counsel who are articulate and exuberant...” and referred to our approach to merger litigation as “wholesome” and “a model of... plaintiffs’ litigation in the merger arena.”

Ocieczanek v. Thomas Properties Group, C.A. No. 9029-VCG (Del. Ch. May 15, 2014)

- **Luo v. Sogou Inc.,**
No. 1:19-cv-00230-LJL (S.D.N.Y. Apr. 2, 2019)
- **In re Aphria Inc. Sec. Litig.,**
No. 1:18-cv-11376-GBD-JEW (S.D.N.Y. Mar. 27, 2019)
- **Chew v. MoneyGram International, Inc.,**
No. 1:18-cv-07537-MMP (N.D. Ill. Feb. 12, 2019)
- **Johnson v. Costco Wholesale Corp.,**
No. 2:18-cv-01611-TSZ (W.D. Wash. Jan. 30, 2019)
- **Tung v. Dycom Industries, Inc.,**
No. 9:18-cv-81448-RS-WM (S.D. Fla. Jan. 11, 2019)
- **Guyer v. MGT Capital Investments, Inc.,**
No. 1:18-cv-09228-ER (S.D.N.Y. Jan. 9, 2019)



Securities Class Action

- **In re Adient plc Sec. Litig.,**
No. 1:18-cv-09116-RA (S.D.N.Y. Dec. 21, 2018)
- **In re Prothena Corp. plc Sec. Litig.,**
No. 1:18-cv-06425-ALC (S.D.N.Y. Oct. 31, 2018)
- **Pierrelouis v. Gogo Inc.,**
No. 1:18-cv-04473-JLA (N.D. Ill. Oct. 10, 2018)
- **Balestra v. Cloud With Me Ltd.,**
No. 2:18-cv-00804-MRH-LPL (W.D. Pa. Oct. 18, 2018)
- **Balestra v. Giga Watt, Inc.,**
No. 2:18-cv-00103-MKD (E.D. Wash. June 28, 2018)
- **Chandler v. Ulta Beauty, Inc.,**
No. 1:18-cv-01577-MMP (N.D. Ill. June 26, 2018)
- **In re Longfin Corp. Sec. Litig.,**
No. 1:18-cv-2933-DLC (S.D.N.Y. June 25, 2018)
- **Chahal v. Credit Suisse Group AG,**
No. 1:18-cv-02268-AT-SN (S.D.N.Y. June 21, 2018)
- **In re Bitconnect Sec. Litig.,**
No. 9:18-cv-80086-DMM-DLB (S.D. Fla. June 19, 2018)
- **In re Aqua Metals Sec. Litig.,**
No. 4:17-cv-07142-HSG (N.D. Cal. May 23, 2018)
- **Davy v. Paragon Coin, Inc.,**
No. 4:18-cv-00671-JSW (N.D. Cal. May 10, 2018)
- **Rensel v. Centra Tech, Inc.,**
No. 1:17-cv-24500-RNS-JB (S.D. Fla. Apr. 11, 2018)
- **Cullinan v. Cemtrex, Inc.**
No. 2:17-cv-01067-SJF-AYS (E.D.N.Y. Mar. 3, 2018)
- **In re Navient Corporation Sec. Litig.,**
No. 1:17-cv-08373-RBK-AMD (D.N.J. Feb. 2, 2018)
- **Huang v. Depomed, Inc.,**
No. 3:17-cv-04830-JST (N.D. Cal. Dec. 8, 2017)
- **In re Regulus Therapeutics Inc. Sec. Litig.,**
No. 3:17-cv-00182-BTM-RBB (S.D. Cal. Oct. 26, 2017)
- **Murphy III v. JBS S.A.,**
No. 1:17-cv-03084-ILG-RER (E.D.N.Y. Oct. 10, 2017)
- **Ohren v. Amyris, Inc.,**
No. 3:17-cv-002210-WHO (N.D. Cal. Aug. 8, 2017)
- **Beezley v. Fenix Parts, Inc.,**
No. 2:17-cv-00233-SRC-CLW (D.N.J. June 28, 2017)
- **M & M Hart Living Trust v. Global Eagle Entertainment, Inc.,**
No. 2:17-cv-01479-PA-MRW (C.D. Cal. June 26, 2017)



Securities Class Action

- **In re Insys Therapeutics, Inc.,**
No. 1:17-cv-1954-PAC (S.D.N.Y. May 31, 2017)
- **Clevlen v. Anthera Pharmaceuticals, Inc.,**
No. 3:17-cv-00715-RS (N.D. Cal. May 18, 2017)
- **In re Agile Therapeutics, Inc. Sec. Litig.,**
No. 3:17-cv-00119-AET-LHG (D.N.J. May 15, 2017)
- **Roper v. SITO Mobile Ltd.,**
No. 2:17-cv-01106-ES-MAH (D.N.J. May 8, 2017)
- **In re Illumina, Inc. Sec. Litig.,**
No. 3:16-cv-03044-JL-MSB (S.D. Cal. Mar. 30, 2017)
- **In re PTC Therapeutics, Inc.,**
No. 2:16-cv-01224-KM-MAH (D.N.J. Nov. 14, 2016)
- **The TransEnterix Investor Group v. TransEnterix, Inc.,**
No. 5:16-cv-00313-JCD (E.D.N.C. Aug. 30, 2016)
- **Gormley v. magicJack Vocaltec Ltd.,**
No. 1:16-cv-01869-VM (S.D.N.Y. July 12, 2016)
- **Azar v. Blount Int'l Inc.,**
No. 3:16-cv-00483-MHS (D. Or. July 1, 2016)
- **Plumley v. Sempra Energy,**
No. 3:16-cv-00512-RTB-AGS (S.D. Cal. June 6, 2016)
- **Francisco v. Abengoa, S.A.,**
No. 1:15-cv-06279-ER (S.D.N.Y. May 24, 2016)
- **De Vito v. Liquid Holdings Group, Inc.,**
No. 2:15-cv-06969-KM-JBC (D.N.J. Apr. 7, 2016)
- **Ford v. Natural Health Trends Corp.,**
No. 2:16-cv-00255-TJH-AFM (C.D. Cal. Mar. 29, 2016)
- **Levin v. Resource Capital Corp.,**
No. 1:15-cv-07081-LLS (S.D.N.Y. Nov. 24, 2015)
- **Martin v. Altisource Residential Corp.,**
No. 1:15-cv-00024-AET-GWC (D.V.I. Oct. 7, 2015)
- **Paggos v. Resonant, Inc.,**
No. 2:15-cv-01970-SJO-MRW (C.D. Cal. Aug. 7, 2015)
- **Fragala v. 500.com Ltd.,**
No. 2:15-cv-01463-JFW-CFE (C.D. Cal. July 7, 2015)
- **Stevens v. Quiksilver Inc.,**
No. 8:15-cv-00516-JVS-JCG (C.D. Cal. June 26, 2015)
- **In re Ocean Power Technologies, Inc. Sec. Litig.,**
No. 3:14-cv-3799-FLW-LHG (D.N.J. Mar. 17, 2015)
- **In re Energy Recovery Inc. Sec. Litig.,**
No. 3:15-cv-00265-EMC-LB (N.D. Cal. Jan. 20, 2015)



Securities Class Action

- **Ford v. TD Ameritrade Holding Corporation, et al.,**
No. 8:14-cv-00396-JFB-SMB (D. Neb. Dec. 2, 2014)
- **In re China Commercial Credit Sec. Litig.,**
No. 1:15-cv-00557-ALC (D.N.J. Oct. 31, 2014)
- **In re Violin Memory, Inc. Sec. Litig.,**
No. 4:13 cv-05486-YGR (N.D. Cal. Feb. 26, 2014)
- **Berry v. KiOR, Inc.,**
No. 4:13-cv-02443-LHR (S.D. Tex. Nov. 25, 2013)
- **In re OCZ Technology Group, Inc. Sec. Litig.,**
No. 3:12-cv-05265-RS (N.D. Cal. Jan. 4, 2013)
- **In re Digital Domain Media Group, Inc. Sec. Litig.,**
No. 2:12-cv-14333-JEM-FJL (S.D. Fla. Sept. 20, 2012)



Derivative, Corporate Governance & Executive Compensation

As a leader in achieving important corporate governance reforms for the benefit of shareholders, the Firm protects shareholders by enforcing the obligations of corporate fiduciaries. Our efforts include the prosecution of derivative actions in courts around the country, making pre-litigation demands on corporate boards to investigate misconduct, and taking remedial action for the benefit of shareholders. In situations where a company's board responds to a demand by commencing its own investigation, we frequently work with the board's counsel to assist with and monitor the investigation, ensuring that the investigation is thorough and conducted in an appropriate manner.

We have also successfully prosecuted derivative and class action cases to hold corporate executives and board members accountable for various abuses and to help preserve corporate assets through longlasting and meaningful corporate governance changes, thus ensuring that prior misconduct does not reoccur. We have extensive experience challenging executive compensation and recapturing assets for the benefit of companies and their shareholders. We have secured corporate governance changes to ensure that executive compensation is consistent

with shareholder-approved compensation plans, company performance, and federal securities laws.

In **Franchi v. Barabe**, No. 2020-0648-KSJM (Del. Ch.), the Firm secured \$6.7 million in economic benefits for Selecta Biosciences, Inc. in connection with insiders' participation in a private placement while in possession of material non-public information as well as the adoption of significant governance reforms designed to prevent a recurrence of the alleged misconduct.

"The Firm was lead counsel in the derivative action styled **Police & Retirement System of the City of Detroit et al. v. Robert Greenberg et al.**, C.A No. 2019-0578-MTZ (Del. Ch.). The action resulted in a settlement where Skechers Inc. cancelled approximately \$20 million in equity awards issued to Skechers' founder Robert Greenberg and two top officers in 2019 and 2020. Also, under the settlement, Skechers' board of directors must retain a consultant to advise on compensation decisions going forward."



Derivative, Corporate Governance & Executive Compensation

In **In re Google Inc. Class C Shareholder Litigation**, C.A. No. 7469-CS (Del. Ch.), we challenged a stock recapitalization transaction to create a new class of nonvoting shares and strengthen the corporate control of the Google founders. We helped achieve an agreement that provided an adjustment payment to existing shareholders harmed by the transaction as well as providing enhanced board scrutiny of the Google founders' ability to transfer stock. Ultimately, Google's shareholders received payments of \$522 million.

In **In re Activision, Inc. Shareholder Derivative Litigation**, No. 06-cv-04771-MRP-JTL (C.D. Cal.), we were Co-Lead Counsel and challenged executive compensation related to the dating of options. This effort resulted in the recovery of more than \$24 million in excessive compensation and expenses, as well as the implementation of substantial corporate governance changes.

“...A Model For How [The] Great Legal Profession Should Conduct Itself.”

Justice Timothy S. Driscoll in *Grossman v. State Bancorp, Inc.*, Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)

In **Pfeiffer v. Toll** (Toll Brothers Derivative Litigation), No. 4140-VCL (Del. Ch.), we prevailed in defeating defendants' motion to dismiss in a case seeking disgorgement of profits that company insiders reaped through a pattern of insider-trading. After extensive discovery, we secured a settlement returning \$16.25 million in cash to the company, including a significant contribution from the individuals who traded on inside information.

In **Rux v. Meyer**, No. 11577-CB (Del. Ch.), we challenged the re-purchase by Sirius XM of its stock from its controlling stockholder, Liberty Media, at an inflated, above-market price. After defeating a motion to dismiss and discovery, we obtained a settlement where SiriusXM recovered \$8.25 million, a substantial percentage of its over-payment.

"In **In re EZCorp Inc. Consulting Agreement Derivative Litig.**, C.A. No. 9962-VCL (Del. Ch.), we challenged lucrative consulting agreements between EZCorp and its controlling stockholders. After surviving multiple motions to dismiss. We obtained a settlement where EZCorp was repaid \$6.45 million it had paid in consulting fees, or approximately 33% of the total at issue and the consulting agreements were discontinued."



Derivative, Corporate Governance & Executive Compensation

In **Scherer v. Lu** (Diodes Incorporated), No. 13-358-GMS (D. Del.), we secured the cancellation of \$4.9 million worth of stock options granted to the company's CEO in violation of a shareholder-approved plan, and obtained additional disclosures to enable shareholders to cast a fully informed vote on the adoption of a new compensation plan at the company's annual meeting.

In **MacCormack v. Groupon, Inc.**, No. 13-940-GMS (D. Del.), we caused the cancellation of \$2.3 million worth of restricted stock units granted to a company executive in violation of a shareholder-approved plan, as well as the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan; we also obtained additional material disclosures to shareholders in connection with a shareholder vote on amendments to the plan.

In **Edwards v. Benson** (Headwaters Incorporated), No. 13-cv-330 (D. Utah), we caused the cancellation of \$3.2 million worth of stock appreciation rights granted to the company's CEO in violation of a shareholder-approved plan and the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan.

In **Pfeiffer v. Begley** (DeVry, Inc.), No. 12-CH-5105 (Ill. Cir. Ct. DuPage Cty.), we secured the cancellation of \$2.1 million worth of stock options granted to the company's CEO in 2008-2012 in violation of a shareholder-approved incentive plan.

In **Basch v. Healy** (EnerNOC), No. 13-cv-766 (D. Del.), we obtained a cash payment to the company to compensate for equity awards issued to officers in violation of the company's compensation plan and caused significant changes in the company's compensation policies and procedures designed to ensure that future compensation decisions are made consistent with the company's plans, charters and policies. We also impacted the board's creation of a new compensation plan and obtained additional disclosures to stockholders concerning the board's administration of the company's plan and the excess compensation.

In **Kleba v. Dees**, No. 3-1-13 (Tenn. Cir. Ct. Knox Cty.), we recovered approximately \$9 million in excess compensation given to insiders and the cancellation of millions of shares of stock options issued in violation of a shareholder-approved compensation plan. In addition, we obtained the adoption of formal corporate governance procedures designed to ensure that future compensation decisions are made independently and consistent with the plan.



Derivative, Corporate Governance & Executive Compensation

In **Lopez v. Nudelman** (CTI BioPharma Corp.), No. 14-2-18941-9 SEA (Wash. Super. Ct. King Cty.), we recovered approximately \$3.5 million in excess compensation given to directors and obtained the adoption of a cap on director compensation, as well as other formal corporate governance procedures designed to implement best practices with regard to director and executive compensation.

In **In re Corinthian Colleges, Inc. Shareholder Derivative Litigation**, No. 06-cv-777-AHS (C.D. Cal.), we were Co-Lead Counsel and achieved a \$2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In **In re Corinthian Colleges, Inc. Shareholder Derivative Litigation**, No. 06-cv-777-AHS (C.D. Cal.), we were Co-Lead Counsel and achieved a \$2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In **Pfeiffer v. Alpert (Beazer Homes Derivative Litigation)**, No. 10-cv-1063-PD (D. Del.), we successfully challenged certain aspects of the company's executive compensation structure, ultimately forcing the company to improve its compensation practices.

In **In re Cincinnati Bell, Inc., Derivative Litigation**, No. A1105305 (Ohio, Hamilton Cty. C.P.), we achieved significant corporate governance changes and enhancements related to the company's compensation policies and practices in order to better align executive compensation with company performance. Reforms included the formation of an entirely independent compensation committee with staggered terms and term limits for service.

In **Woodford v. Mizel** (M.D.C. Holdings, Inc.), No. 1:11-cv-879 (D. Del.), we challenged excessive executive compensation, ultimately obtaining millions of dollars in reductions of that compensation, as well as corporate governance enhancements designed to implement best practices with regard to executive compensation and increased shareholder input.



Mergers & Acquisitions

Levi & Korsinsky has achieved an impressive record in obtaining injunctive relief for shareholders, and we are one of the premier law firms engaged in mergers & acquisitions and takeover litigation, consistently striving to maximize shareholder value. In these cases, we regularly fight to obtain settlements that enable the submission of competing buyout bid proposals, thereby increasing consideration for shareholders.

We have litigated landmark cases that have altered the landscape of mergers & acquisitions law and resulted in multi-million dollar awards to aggrieved shareholders.

In **In re Schuff International, Inc. Stockholders Litigation**, No. 10323-VCZ (Del. Ch.), we served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders.

In **In re Bluegreen Corp. Shareholder Litigation**, No. 502011CA018111 (Cir. Ct. for Palm Beach Cty., FL), as Co-Lead Counsel, we achieved a common fund recovery of \$36.5 million for minority shareholders in connection with a management-led buyout, increasing gross consideration to shareholders in connection with the transaction by 25% after three years of intense litigation.

In **In re CNX Gas Corp. Shareholder Litigation**, No. 5377-VCL (Del. Ch.), as Plaintiffs' Executive Committee Counsel, we obtained a landmark ruling from the Delaware Chancery Court that set forth a unified standard for assessing the rights of shareholders in the context of freeze-out transactions and ultimately led to a common fund recovery of over \$42.7 million for the company's shareholders.

In **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch.), we represented shareholders in challenging the merger between Occam Networks, Inc. and Calix, Inc., obtaining a preliminary injunction against the merger after showing that the proxy statement by which the shareholders were solicited to vote for the merger was materially false and misleading. Post-closing, we took the case to trial and recovered an additional \$35 million for the shareholders.



Mergers & Acquisitions

In **In re Sauer-Danfoss Stockholder Litig.**, No. 8396 (Del. Ch.), as one of plaintiffs' co-lead counsel, we recovered a \$10 million common fund settlement in connection with a controlling stockholder merger transaction.

In **In re Yongye International, Inc. Shareholders' Litigation**, No. A-12-670468-B (District Court, Clark County, Nevada), as one of plaintiffs' co-lead counsel, we recovered a \$6 million common fund settlement in connection with a management-led buyout of minority stockholders in a China-based company incorporated under Nevada law.

In **In re Great Wolf Resorts, Inc. Shareholder Litigation**, No. 7328-VCN (Del. Ch.), we achieved tremendous results for shareholders, including partial responsibility for a \$93 million (57%) increase in merger consideration and the waiver of several "don't-ask-don't-waive" standstill agreements that were restricting certain potential bidders from making a topping bid for the company. In **In re Talecris Biotherapeutics Holdings Shareholder Litigation**, C.A. No. 5614-VCL (Del. Ch.), we served as counsel for one of the Lead Plaintiffs, achieving a settlement that increased the merger consideration to Talecris shareholders by an additional 500,000 shares of the acquiring company's stock and providing shareholders with appraisal rights.

In **In re Minerva Group LP v. Mod-Pac Corp.**, Index No. 800621/2013 (N.Y. Sup. Ct. Erie Cty.), we obtained a settlement in which defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share, representing a recovery of \$2.4 million for shareholders.

In **Stephen J. Dannis v. J.D. Nichols**, No. 13-CI-00452 (Ky. Cir. Ct. Jefferson Cty.), as Co-Lead Counsel, we obtained a 23% increase in the merger consideration (from \$7.50 to \$9.25 per unit) for shareholders of NTS Realty Holdings Limited Partnership. The total benefit of \$7.4 million was achieved after two years of hard-fought litigation, challenging the fairness of the going-private, squeeze-out merger by NTS's controlling unitholder and Chairman, Defendant Jack Nichols. The unitholders bringing the action alleged that Nichols' proposed transaction grossly undervalued NTS's units. The 23% increase in consideration was a remarkable result given that on October 18, 2013, the Special Committee appointed by the Board of Directors had terminated the existing merger agreement with Nichols. Through counsel's tenacious efforts the transaction was resurrected and improved.



Mergers & Acquisitions

In **Dias v. Purches**, No. 7199-VCG (Del. Ch.), Vice Chancellor Sam Glasscock, III of the Delaware Chancery Court partially granted shareholders' motion for preliminary injunction and ordered that defendants correct a material misrepresentation in the proxy statement related to the acquisition of Parlux Fragrances, Inc. by Perfumania Holding, Inc.

In **In re Complete Genomics, Inc. Shareholder Litigation**, No. 7888-VCL (Del. Ch.), we obtained preliminary injunctions of corporate merger and acquisition transactions, and Plaintiffs successfully enjoined a "don't-ask-don't-waive" standstill agreement.

In **Forgo v. Health Grades, Inc.**, No. 5716-VCS (Del. Ch.), as Co-Lead Counsel, our attorneys established that defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required under *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*, No. 506 A.2d 173 (Del. 1986). We secured an agreement with defendants to take numerous steps to seek a superior offer for the company, including making key modifications to the merger agreement, creating an independent committee to evaluate potential offers, extending the tender offer period, and issuing a "Fort Howard" release affirmatively stating that the company would participate in good faith discussions with any party making a bona fide acquisition proposal.

In **In re Pamrapo Bancorp Shareholder Litigation**, Docket C-89-09 (N.J. Ch. Hudson Cty.) & HUD-L-3608-12 (N.J. Law Div. Hudson Cty.), we defeated defendants' motion to dismiss shareholders' class action claims for money damages arising from the sale of Pamrapo Bancorp to BCB Bancorp at an allegedly unfair price through an unfair process. We then survived a motion for summary judgment, ultimately securing a settlement recovering \$1.95 million for the Class plus the Class's legal fees and expenses up to \$1 million (representing an increase in consideration of 15-23% for the members of the Class).

In **In re Integrated Silicon Solution, Inc. Stockholder Litigation**, No. 115CV279142 (Super. Ct. Santa Clara, Cal.), we won an injunction requiring corrective disclosures concerning "don't-ask-don't-waive" standstill agreements and certain financial advisor conflicts of interests, and contributed to the integrity of a post-agreement bidding contest that led to an increase in consideration from \$19.25 to \$23 per share, a bump of almost 25 percent.

“I think you've done a superb job and I really appreciate the way this case was handled.”

Justice Timothy S. Driscoll in *Grossman v. State Bancorp, Inc.*, Index No. 600469/2011 (N.Y. Sup. Ct. Nassau Cnty. Nov. 29, 2011)



Consumer Litigation

Levi & Korsinsky works hard to protect consumers by holding corporations accountable for defective products, false and misleading advertising, unfair or deceptive business practices, antitrust violations, and privacy right violations.

Our litigation and class action expertise combined with our in-depth understanding of federal and state laws enable us to fight for consumers who have been aggrieved by deceptive and unfair business practices and who purchased defective products, including automobiles, appliances, electronic goods, and other consumer products. The Firm also represents consumers in cases involving data breaches and privacy right violations. The Firm's attorneys have received a number of leadership appointments in consumer class action cases, including multidistrict litigation ("MDL"). Recently, Law.com identified the Firm as one of the top firms with MDL leadership appointments in the article titled, "There Are New Faces Leading MDLs. And They Aren't All Men" (July 6, 2020). Representative settled and ongoing cases include:

In **NV Security, Inc. v. Fluke Networks**, No. CV05-4217 GW (SSx) (C.D. Cal. 2005), we negotiated a settlement on behalf of purchasers of Test Set telephones in an action alleging that the Test Sets contained a defective 3-volt battery. We benefited the consumer class by obtaining the following relief: free repair of the 3-volt battery, reimbursement for certain prior repair, an advisory concerning the 3-volt battery on the outside of packages of new Test Sets, an agreement that defendants would cease to market and/or sell certain Test Sets, and a 42-month warranty on the 3-volt battery contained in certain devices sold in the future.

In **Re: Apple Inc. Device Performance Litig.**, No. 5:18-md-02827-EJD (N.D. Cal.): Plaintiffs' Executive Committee Counsel in proposed nationwide class action alleging that Apple purposefully throttled iPhone; Apple has agreed to pay up to \$310 million in cash (proposed settlement pending).



Consumer Litigation

In re: Intel Corp. CPU Marketing, Sales Practices and Products Liability Litig., No. 3:18-MD-02828 (D. Or.): Co-Lead Interim Class Counsel in proposed nationwide class action alleging that Intel manufactured and sold defective central processing units that allowed unauthorized access to consumer stored confidential information.

In re: ZF-TRW Airbag Control Units Products Liability Litig., No. 2:19-ML-02905-JAK-FFM (C.D. Cal.): Plaintiffs' Steering Committee Counsel in proposed nationwide class action alleging that defendant auto manufacturers sold vehicles with defective airbags.

In re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig., No. 2:17-MD-02785 (D. Kan.): Plaintiffs' Executive Committee Counsel in action alleging that Mylan and Pfizer violated antitrust laws and committed other violations relating to the sale of EpiPens. Nationwide class and multistate classes certified.

Sung, et al. v. Schurman Retail Group, No. 3:17-cv-02760-LB (N.D. Cal.): Co-Lead Class Counsel in nationwide class action alleging unauthorized disclosure of employee financial information; obtained final approval of nationwide class action settlement providing credit monitoring and identity theft restoration services through 2022 and cash payments of up to \$400.

Scott, et al. v. JPMorgan Chase Bank, N.A., No. 1:17-cv-00249-APM (D.D.C.): Co-Lead Class Counsel in nationwide class action settlement of claims alleging improper fees deducted from payments awarded to jurors; 100% direct refund of improper fees collected.

In re: Citrix Data Breach Litig., No. 19-cv-61350-RKA-PMH (S.D. Fla.): Interim Class Counsel in action alleging company failed to implement reasonable security measures to protect employee financial information; common fund settlement of \$2.25 million pending.

Bustos v. Vonage America, Inc., No. 2:06-cv-2308-HAA-ES (D.N.J.): Common fund settlement of \$1.75 million on behalf of class members who purchased Vonage Fax Service in an action alleging that Vonage made false and misleading statements in the marketing, advertising, and sale of Vonage Fax Service by failing to inform consumers that the protocol defendant used for the Vonage Fax Service was unreliable and unsuitable for facsimile communications.

Masterson v. Canon U.S.A., No. BC340740 (Cal. Super. Ct. L.A. Cty.): Settlement providing refunds to Canon SD camera purchasers for certain broken LCD repair charges and important changes to the product warranty.

Our Attorneys

Managing Partners

- EDUARD KORSINSKY
- JOSEPH E. LEVI

EDUARD KORSINSKY

Managing Partner



Eduard Korsinsky is the Managing Partner and Co-Founder of Levi & Korsinsky, LLP, a national securities firm that has recovered billions of dollars for investors since its formation in 2003. For more than 24 years Mr. Korsinsky has represented investors and institutional shareholders in complex securities matters. He has achieved significant recoveries for stockholders, including a \$79 million recovery for investors of E-Trade Financial Corporation and a payment ladder indemnifying investors of Google, Inc. up to \$8 billion in losses on a ground-breaking corporate governance case. His firm serves as lead counsel in some of the largest securities matters involving Tesla, US Steel, Kraft Heinz and others. He has been named a New York "Super Lawyer" by Thomson Reuters and is recognized as one of the country's leading practitioners in class action and derivative matters.

Mr. Korsinsky is also a co-founder of CORE Monitoring Systems LLC, a technology platform designed to assist institutional clients more effectively monitor their investment portfolios and maximize recoveries on securities litigation.

Cases he has litigated include:

- **E-Trade Financial Corp. Sec. Litig.**, No. 07-cv-8538 (S.D.N.Y. 2007), \$79 million recovery
- **In re Activision, Inc. S'holder Derivative Litig.**, No. 06-cv-04771-MRP (JTLX)(C.D. Cal. 2006), recovered \$24 million in excess compensation
- **Corinthian Colleges, Inc., S'holder Derivative Litig.**, No. SACV-06-0777-AHS (C.D. Cal. 2009), obtained repricing of executive stock options providing more than \$2 million in benefits to the company

- **Pfeiffer v. Toll**, No. 4140-VCL (Del. Ch. 2010), \$16.25 million in insider trading profits recovered
- **In re NetzPhone, Inc. S'holder Litig.**, No. 1467-N (Del. Ch. 2005), obtained increase in tender offer price from \$1.70 per share to \$2.05 per share
- **In re Pamrapo Bancorp S'holder Litig.**, No. C-89-09 (N.J. Ch. Hudson Cty. 2011) & No. HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), obtained supplemental disclosures following the filing of a motion for preliminary injunction, pursued case post-closing, secured key rulings on issues of first impression in New Jersey and defeated motion for summary judgment

EDUARD KORSINSKY

Managing Partner

Cases he has litigated include:

- **In re Google Inc. Class C S'holder Litig.**, No. 19786 (Del. Ch. 2012), obtained payment ladder indemnifying investors up to \$8 billion in losses stemming from trading discounts expected to affect the new stock
- **Woodford v. M.D.C. Holdings, Inc.**, No. 1:2011cv00879 (D. Del. 2012), one of a few successful challenges to say on pay voting, recovered millions of dollars in reductions to compensation

- **Pfeiffer v. Alpert (Beazer Homes)**, No. 10-cv-1063-PD (D. Del. 2011), obtained substantial revisions to an unlawful executive compensation structure
- **In re NCS Healthcare, Inc. Sec. Litig.**, No. CA 19786, (Del. Ch. 2002), case settled for approximately \$100 million
- **Paraschos v. YBM Magnex Int'l, Inc.**, No. 98-CV-6444 (E.D. Pa.), United States and Canadian cases settled for \$85 million Canadian

PUBLICATIONS

- "Board Diversity: The Time for Change is Now, Will Shareholders Step Up?," *National Council on Teacher Retirement. FYI Newsletter* May 2021
- "The Dangers of Relying on Custodians to Collect Class Action Settlements.", *The Texas Association of Public Employee Retirement Systems (TEXPERS) Investment Insights* April-May Edition (2021)
- "The Dangers of Relying on Custodians to Collect Class Action Settlements.", *Michigan Association of Public Employee Retirement Systems (MAPERS) Newsletter* (2021)
- "The Dangers of Relying on Custodians to Collect Class Action Settlements.", *Florida Public Pension Trustees Association (FPPTA)* (2021)
- "NY Securities Rulings Don't Constitute Cyan Backlash", *Law360* (March 8, 2021)
- "Best Practices for Monitoring Your Securities Portfolio in 2021.", *Building Trades News Newsletter* (2020-2021)

- "Best Practices for Monitoring Your Securities Portfolio in 2021.", *The Texas Association of Public Employee Retirement Systems (TEXPERS) Monitor* (2021)
- "Best Practices for Monitoring Your Securities Portfolio in 2021.", *Michigan Association of Public Employee Retirement Systems (MAPERS) Newsletter* (2021)
- "Best Practices for Monitoring Your Securities Portfolio in 2021.", *Florida Public Pension Trustees Association (FPPTA)* (2021)
- Delaware Court Dismisses Compensation Case Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- SDNY Questions SEC Settlement Practices in Citigroup Settlement, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- New York Court Dismisses Shareholder Suit Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Oct. 31, 2011)

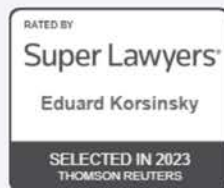
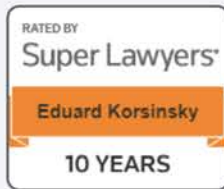
EDUARD KORSINSKY

Managing Partner

EDUCATION

- New York University School of Law, LL.M. Master of Law(s) Taxation (1997)
- Brooklyn Law School, J.D. (1995)
- Brooklyn College, B.S., Accounting, *summa cum laude* (1992)

AWARDS



ADMISSIONS

- New York (1996)
- New Jersey (1996)
- United States District Court for the Southern District of New York (1998)
- United States District Court for the Eastern District of New York (1998)
- United States Court of Appeals for the Second Circuit (2006)
- United States Court of Appeals for the Third Circuit (2010)
- United States District Court for the Northern District of New York (2011)
- United States District Court of New Jersey (2012)
- United States Court of Appeals for the Sixth Circuit (2013)

JOSEPH E. LEVI

Managing Partner



Joseph E. Levi is a central figure in shaping and managing the Firm's securities litigation practice. Mr. Levi has been lead or co-lead in dozens of cases involving the enforcement of shareholder rights in the context of mergers & acquisitions and securities fraud. In addition to his involvement in class action litigation, he has represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications, and information processing, and has been instrumental in obtaining substantial awards and settlements.

Mr. Levi and the Firm achieved success on behalf of the former shareholders of Occam Networks in litigation challenging the Company's merger with Calix, Inc., obtaining a preliminary injunction against the merger due to material representations and omissions in the proxy solicitation. **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch.). Vigorous litigation efforts continued to trial, resulting in a \$35 million recovery for shareholders.

Mr. Levi and the Firm served as lead counsel in **Weigard v. Hicks**, No. 5732-VCS (Del. Ch.), which challenged the acquisition of Health Grades by affiliates of Vestar Capital Partners. Mr. Levi successfully demonstrated to the Court of Chancery that the defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize shareholder value. This ruling was used to reach a favorable settlement where defendants agreed to a host of measures designed to increase the likelihood of superior bid. Vice Chancellor Strine "applauded!" the litigation team for their preparation and the extraordinary high-quality of the briefing.

“ [The court] appreciated very much the quality of the argument..., the obvious preparation that went into it, and the ability of counsel...”

Vice Chancellor Sam Glasscock, III In *Dias V. Purches*, No. 7199-VCG (Del. Ch. Apr. 5, 2012)

JOSEPH E. LEVI

Managing Partner

EDUCATION

- Brooklyn Law School, J.D., *magna cum laude* (1995)
- Polytechnic University, B.S., Electrical Engineering, *summa cum laude* (1984); M.S. Systems Engineering (1986)

AWARDS



ADMISSIONS

- New York (1996)
- New Jersey (1996)
- United States Patent and Trademark Office (1997)
- United States District Court for the Southern District of New York (1997)
- United States District Court for the Eastern District of New York (1997)

A background image showing a close-up of two hands shaking in a firm grip. One hand is wearing a black watch with a dark face and a black strap. The background is blurred, showing what appears to be an office setting with papers and a pen on a desk.

Our Attorneys

Partners

- ADAM M. APTON
- DONALD J. ENRIGHT
- SHANNON L. HOPKINS
- GREGORY M. NESPOLE
- GREGORY M. POTREPKA
- NICHOLAS I. PORRITT
- MARK S. REICH
- DANIEL TEPPER
- ELIZABETH K. TRIPODI

ADAM M. APTON

Partner



Adam M. Apton focuses his practice on investor protection. He represents institutional investors and high net worth individuals in securities fraud, corporate governance, and shareholder rights litigation. Prior to joining the firm, Mr. Apton defended corporate clients against complex mass tort, commercial, and products liability lawsuits. Thomson Reuters has selected Mr. Apton to the Super Lawyers "Rising Stars" list every year since 2016, a distinction given to only the top 2.5% of lawyers. He has also been awarded membership to the prestigious Lawyers of Distinction for his excellence in the practice of law and named to the "Lawdragon 500 X" list out of thousands of candidates in recognition of his place at the forefront of the legal profession.

Mr. Apton's past representations and successes include:

- **In re Tesla, Inc. Securities Litigation**, No. 3:18-cv-04865-EMC (N.D. Cal.) (trial counsel in class action representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018)
- **In re Navient Corp. Securities Litigation**, No. 17-8373 (RBK/AMD) (D.N.J.) (lead counsel in class action against leading provider of student loans for alleged false and misleading statements about compliance with consumer protection laws)
- **In re Prothena Corporation Plc Securities Litigation**, No. 1:18-cv-06425-ALC (S.D.N.Y.) (\$15.75 million settlement fund against international drug company for false statements about development of lead biopharmaceutical product)
- **Martin v. Altisource Residential Corporation**, et al., No. 15-00024 (AET) (GWC) (D.V.I.) (\$15.5 million settlement fund against residential mortgage company for false statements about compliance with consumer regulations and corporate governance protocols)
- **Levin v. Resource Capital Corp., et al.**, No. 1:15-cv-07081-LLS (S.D.N.Y.) (\$9.5 million settlement in class action over fraudulent statements about toxic mezzanine loan assets)

ADAM M. APTON

Partner

- **Rux v. Meyer (Sirius XM Holdings Inc.)**, No. 11577 (Del. Ch.) (recovery of \$8.25 million against SiriusXM's Board of Directors for engaging in harmful related-party transactions with controlling stockholder, John. C. Malone and Liberty Media Corp.)

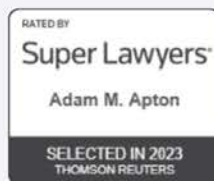
PUBLICATIONS

- "Pleading Section 11 Liability for Secondary Offerings" *American Bar Association: Practice Points* (Jan. 4, 2017)
- "Second Circuit Rules in Indiana Public Retirement System v. SAIC, Inc." *American Bar Association: Practice Points* (Apr. 4, 2016)
- "Second Circuit Applies Omnicare to Statements of Opinion in Sanofi" *American Bar Association: Practice Points* (Mar. 30, 2016)
- "Second Circuit Rules in Action AG v. China North" *American Bar Association: Practice Points* (Sept. 14, 2015)

EDUCATION

- New York Law School, J.D., *cum laude* (2009), where he served as Articles Editor of the New York Law School Law Review and interned for the New York State Supreme Court, Commercial Division
- University of Minnesota, B.A., Entrepreneurial Management & Psychology, With Distinction (2006)

AWARDS



ADMISSIONS

- New York (2010)
- United States District Court for the Southern District of New York (2010)
- United States District Court for the Eastern District of New York (2010)
- United States Court of Appeals for the Ninth Circuit (2015)
- United States Court of Appeals for the Second Circuit (2016)
- United States Court of Appeals for the Third Circuit (2016)
- California (2017)
- United States District Court for the Northern District of California (2017)
- United States District Court for the Central District of California (2017)
- United States District Court for the Southern District of California (2017)
- New Jersey (2020)
- United States District Court for the District of New Jersey (2020)

DONALD J. ENRIGHT

Partner



During his 26 years as a litigator and trial lawyer, Mr. Enright has handled matters in the fields of securities, commodities, consumer fraud and commercial litigation, with a particular emphasis on shareholder M&A and securities fraud class action litigation. He has been named as one of the leading financial litigators in the nation by Lawdragon, as a Washington, DC "Super Lawyer" by Thomson Reuters, and as one of the city's "Top Lawyers" by Washingtonian magazine.

Mr. Enright has shown a track record of achieving victories in federal trials and appeals, including:

- **Nathenson v. Zonagen, Inc.**, No. 267 F. 3d 400, 413 (5th Cir. 2001)
- **SEC v. Butler**, No. 2005 U.S. Dist. LEXIS 7194 (W.D. Pa. April 18, 2005)
- **Belizan v. Hershon**, No. 434 F. 3d 579 (D.C. Cir. 2006)
- **Rensel v. Centra Tech, Inc.**, No. 2021 WL 2659784 (11th Cir. June 29, 2021)

Most recently, in **In re Schuff International, Inc. Stockholders Litigation**, No. 10323-VCZ, Mr. Enright served as Co-Lead Counsel for the plaintiff class in achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders.

Similarly, as Co-Lead Counsel in **In re Bluegreen Corp. Shareholder Litigation**, No. 502011CA018111 (Cir. Ct. for Palm Beach Cnty., Fla.), Mr. Enright achieved a \$36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders.

DONALD J. ENRIGHT

Partner

Also, in **In re CNX Gas Corp. Shareholders Litigation**, No. 53377-VCL (Del. Ch. 2010), in which Levi & Korsinsky served upon plaintiffs' Executive Committee, Mr. Enright helped obtain the recovery of a common fund of over \$42.7 million for stockholders.

Mr. Enright has also played a leadership role in numerous securities and shareholder class actions from inception to conclusion. Most recently, he has served as lead counsel in several cryptocurrency-related securities class actions. His leadership has produced multi-million-dollar recoveries in shareholder class actions involving such companies as:

- Allied Irish Banks PLC
- Iridium World Communications, Ltd.
- En Pointe Technologies, Inc.
- PriceSmart, Inc.
- Polk Audio, Inc.
- Meade Instruments Corp.
- Xicor, Inc.
- Streamlogic Corp.
- Interbank Funding Corp.
- Riggs National Corp.
- UTStarcom, Inc.
- Manugistics Group, Inc.

Mr. Enright also has a successful track record of obtaining injunctive relief in connection with shareholder M&A litigation, having won preliminary injunctions or other injunctive relief in the cases of:

- **In re Portec Rail Products, Inc. S'holder Litig.**, No. G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- **In re Craftmade International, Inc. S'holder Litig.**, No. 6950-VCL (Del. Ch. 2011)
- **Dias v. Purches**, No. 7199-VCG (Del. Ch. 2012)
- **In re Complete Genomics, Inc. S'holder Litig.**, No. 7888-VCL (Del. Ch. 2012)
- **In re Integrated Silicon Solution, Inc. Stockholder Litig.**, No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

DONALD J. ENRIGHT

Partner

Mr. Enright has also demonstrated considerable success in obtaining deal price increases for shareholders in M&A litigation. As Co-Lead Counsel in the matter of **In re Great Wolf Resorts, Inc. Shareholder Litigation**, No. 7328-VCN (Del. Ch. 2012), Mr. Enright was partially responsible for a \$93 million (57%) increase in merger consideration and waiver of several "don't-ask-don't-waive" standstill agreements that were precluding certain potential bidders from making a topping bid for the company.

Similarly, Mr. Enright served as Co-Lead Counsel in the case of **Berger v. Life Sciences Research, Inc.**, No. SOM-C-12006-09 (NJ Sup. Ct. 2009), which caused a significant increase in the transaction price from \$7.50 to \$8.50 per share, representing additional consideration for shareholders of approximately \$11.5 million.

Mr. Enright also served as Co-Lead Counsel in **Minerva Group, LP v. Keane**, Index No. 800621/2013 (NY Sup. Ct. of Erie Cnty.) and obtained a settlement in which Defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share.

The courts have consistently recognized and praised the quality of Mr. Enright's work. In **In re Interbank Funding Corp. Securities Litigation** (D.D.C. 02-1490), Judge Bates of the United States District Court for the District of Columbia observed that Mr. Enright had "...skillfully, efficiently, and zealously represented the class, and... worked relentlessly throughout the course of the case."

Similarly, in **Freeland v. Iridium World Communications, LTD**, (D.D.C. 99-1002), Judge Nanette Laughrey stated that Mr. Enright had done "an outstanding job" in connection with the recovery of \$43.1 million for the shareholder class.

And, in the matter of **Osieczanek v. Thomas Properties Group**, No. 9029-VCG (Del. Ch. 2013), Vice Chancellor Sam Glasscock of the Chancery Court of Delaware observed that "it's always a pleasure to have counsel [like Mr. Enright] who are articulate and exuberant in presenting their position," and that Mr. Enright's prosecution of a merger case was "wholesome" and served as "a model of . . . plaintiffs' litigation in the merger arena."

DONALD J. ENRIGHT

Partner

PUBLICATIONS

- "SEC Enforcement Actions and Investigations in Private and Public Offerings," Securities: Public and Private Offerings, Second Edition, West Publishing 2007
- "Dura Pharmaceuticals: Loss Causation Redefined or Merely Clarified?" J. Tax'n & Reg. Fin. Inst. September/October 2007, Page 5

EDUCATION

- George Washington University School of Law, J.D. (1996), where he was a Member Editor of The George Washington University Journal of International Law and Economics from 1994 to 1996
- Drew University, B.A., Political Science and Economics, *cum laude* (1993)

AWARDS



ADMISSIONS

- Maryland (1996)
- New Jersey (1996)
- United States District Court for the District of Maryland (1997)
- United States District Court for the District of New Jersey (1997)
- District of Columbia (1999)
- United States Court of Appeals for the Fourth Circuit (1999)
- United States Court of Appeals for the Fifth Circuit (1999)
- United States District Court for the District of Columbia (1999)
- United States Court of Appeals for the District of Columbia (2004)
- United States Court of Appeals for the Second Circuit (2005)
- United States Court of Appeals for the Third Circuit (2006)
- United States District Court for the District of Colorado (2017)

SHANNON L. HOPKINS

Partner



Shannon L. Hopkins manages the Firm's Connecticut office. She was selected in 2013 as a New York "Super Lawyer" by Thomson Reuters. For more than two decades Ms. Hopkins has been prosecuting a wide range of complex class action matters in securities fraud, mergers and acquisitions, and consumer fraud litigation on behalf of individuals and large institutional clients. Ms. Hopkins has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multimillion-dollar settlements on behalf of shareholders, including:

- **E-Trade Financial Corp. S'holder Litig.**, No. 07-cv-8538 (S.D.N.Y. 2007), \$79 million recovery for the shareholder class
- **In re U.S. Steel Consolidated Cases**, No. 17-559-CB (W.D. Pa.), \$40 million recovery for shareholder class
- **In re Nutanix, Inc. Securities Litigation**, No. 3:19-cv-01651-WHO (the "Stock Case"), \$71 million for shareholder class
- **Rougier v. Applied Optoelectronics, Inc.**, No. 17-cv-2399 (S.D. Tex.), \$15.5 million recovery for shareholder class
- **In Re Helios and Matheson Analytics, Inc. Sec. Litig.**, No. 18-cv-6965-JGK (S.D.N.Y.), \$8.25 Million shareholder recovery
- **In re Restoration Robotics, Inc. Sec. Litig.**, No. 18-cv-03712-EJD (N.D. Cal.), \$4.175 million shareholder recovery
- **In Stein v. U.S. Xpress Enterprises, Inc.**, et al., No. 1:19-cv-98-TRM-CHS (E.D. Tenn.), \$4.3 million shareholder recovery
- **Kirkland, et al. v. WideOpenWest, Inc.**, et al., Index No. 653248/2018, \$7.025 million recovery for shareholder class

SHANNON L. HOPKINS

Partner

“Plaintiffs’ selected Class Counsel, the law firm of Levi & Korsinsky, LLP, has demonstrated the zeal and competence required to adequately represent the interests of the Class. The attorneys at Levi & Korsinsky have experience in securities and class actions issues and have been appointed lead counsel in a significant number of securities class actions across the country.”

The Honorable Christina Bryan In Rougier V. Applied Optoelectronics, Inc., No. 4:17-CV-02399 (S.D. Tex. Nov. 13, 2019)

In addition to her legal practice, Ms. Hopkins is a Certified Public Accountant (1998 Massachusetts). Prior to becoming an attorney, Ms. Hopkins was a senior auditor with PricewaterhouseCoopers LLP, where she led audit engagements for large publicly held companies in a variety of industries.

“In appointing the Firm Lead Counsel, the Honorable Gary Allen Feess noted our “significant prior experience in securities litigation and complex class actions.”

Zaghian V. THQ, Inc., No. 2:12-Cv-05227-GAF-JEM (C.D. Cal. Sept. 14, 2012)

SHANNON L. HOPKINS

Partner

PUBLICATIONS

- "Cybercrime Convention: A Positive Beginning to a Long Road Ahead," 2 J. High Tech. L. 101 (2003)

EDUCATION

- Suffolk University Law School, J.D., *magna cum laude* (2003), where she served on the Journal for High Technology and as Vice Magister of the Phi Delta Phi International Honors Fraternity
- Bryant University, B.S.B.A., Accounting and Finance, *cum laude* (1995), where she was elected to the Beta Gamma Sigma Honor Society

AWARDS



ADMISSIONS

- Massachusetts (2003)
- United States District Court for the District of Massachusetts (2004)
- New York (2004)
- United States District Court for the Southern District of New York (2004)
- United States District Court for the Eastern District of New York (2004)
- United States District Court for the District of Colorado (2004)
- United States Court of Appeals for the First Circuit (2008)
- United States Court of Appeals for the Third Circuit (2010)
- Connecticut (2013)
- United States Court of Appeals for the Ninth Circuit (2023)

GREGORY M. NESPOLE

Partner



Gregory Mark Nespole is a Partner of the Firm, having been previously a member of the management committee of one of the oldest firms in New York, as well as chair of that firm's investor protection practice. He specializes in complex class actions, derivative actions, and transactional litigation representing institutional investors such as public and labor pension funds, labor health and welfare benefit funds, and private institutions. Prior to practicing law, Mr. Nespole was a strategist on an arbitrage desk and an associate in a major international investment bank where he worked on structuring private placements and conducting transactional due diligence.

For over twenty years, Mr. Nespole has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multi-million-dollar settlements on behalf of shareholders, including:

- Served as co-chair of a Madoff Related Litigation Task Force that recovered over several hundred million dollars for wronged investors;
- Obtained a \$90 million award on behalf of a publicly listed company against a global bank arising out of fraudulently marketed auction rated securities;
- Successfully obtained multi-million-dollar securities litigation recoveries and/or corporate governance reforms from Cablevision, JP Morgan, American Pharmaceutical Partners, Sepracor, and MBIA, among many others.

Mr. Nespole is a member of The Federalist Society, the Federal Bar Council, and the FBC's Securities Litigation Committee. Mr. Nespole's peers have elected him a "Super Lawyer" in the class action field annually since 2009. He is active in his community as a youth sports coach.

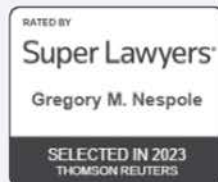
GREGORY M. NESPOLE

Partner

EDUCATION

- Brooklyn Law School, J.D. (1993)
- Bates College, B.A. (1989)

AWARDS



ADMISSIONS

- New York (1994)
- United States District Court for the Southern District of New York (1994)
- United States District Court for the Eastern District of New York (1994)
- United States Court of Appeals for the Second Circuit (1994)
- United States Court of Appeals for the Fourth Circuit (1994)
- United States Court of Appeals for the Fifth Circuit (1994)
- United States District Court for the Northern District of New York (2018)
- United States Court of Appeals for the Eighth Circuit (2019)
- United States Court of Appeals for the Third Circuit (2020)

GREGORY M. POTREPKA

Partner



Gregory M. Potrepka is a partner of the Firm in its Connecticut office. Mr. Potrepka's practice specializes in vindicating investor rights, including the interests of shareholders of publicly traded companies. Specifically, Mr. Potrepka has considerable experience prosecuting complex class actions, securities fraud matters, and similar commercial litigation. Mr. Potrepka's role in the Firm's securities litigation practice has significantly contributed to many of the Firm's successes, including the following representative matters:

- **In re Nutanix, Inc. Sec. Litig.**, No. 3:19-01651-WHO (N.D. Cal.); Norton v. Nutanix, Inc., 3:21-cv-04080-WHO (N.D. Cal.) (\$71 million recovery)
- **In re U.S. Steel Consolidated Cases**, No. 17-579 (W.D. Pa.) (\$40 million recovery)
- **Rougier v. Applied Optoelectronics, Inc.**, No. 4:17-cv-2399 (S.D. Tex.) (\$15.5 million recovery)
- **In re Helios and Matheson Analytics, Inc. Securities Litigation**, No. 1:18-cv-06965 (S.D.N.Y.) (\$8.25 million recovery)
- **In re Aqua Metals Securities Litigation**, No. 17-cv-07142-HSG (N.D. Cal.) (\$7 million recovery)

ADMISSIONS

- Connecticut (2015)
- Mashantucket Pequot Tribal Court (2015)
- United States District Court for the District of Connecticut (2016)
- United States District Court for the Southern District of New York (2018)
- United States District Court for the Eastern District of New York (2018)
- United States Court of Appeals for the Third Circuit (2020)
- New York (2023)
- United States District of Colorado (2023)

EDUCATION

- University of Connecticut School of Law, J.D. (2015)
- University of Connecticut Department of Public Policy, M.P.A. (2015)
- University of Connecticut, B.A., Political Science (2010)

AWARD



NICHOLAS I. PORRITT

Partner



Nicholas Porritt prosecutes securities class actions, shareholder class actions, derivative actions, and mergers and acquisitions litigation. He has extensive experience representing plaintiffs and defendants in a wide variety of complex commercial litigation, including civil fraud, breach of contract, and professional malpractice, as well as defending SEC investigations and enforcement actions. Mr. Porritt has helped recover hundreds of millions of dollars on behalf of shareholders. He was one of the Lead Counsel in **In re Google Inc. Class C Shareholder Litigation**, No. 7469-CS (Del. Ch.), which resulted in a payment of \$522 million to shareholders and overall benefit of over \$3 billion to Google's minority shareholders. He was one of the lead counsel in **Chen v. Howard-Anderson**, No. 5878-VCL (Del. Ch.) that settled during trial resulting in a \$35 million payment to the former shareholders of Occam Networks, Inc., one of the largest quasi-appraisal recoveries for shareholders. Amongst other cases, he is currently lead counsel in *In re Tesla, Inc. Securities Litigation*, No. 3:18-cv-04865-EMC (N.D. Cal.), representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018 as well as lead counsel in *Ford v. TD Ameritrade Holding Corp.*, No. 14-cv-396 (D. Neb.), representing TD Ameritrade customers harmed by its improper routing of their orders. Both cases involve over \$1 billion in estimated damages.

Some of Mr. Porritt's recent cases include:

- **In re Tesla, Inc. Sec. Litig.**, No. 2020 WL 1873441 (N.D. Cal.2020)
- **In Re Aphria, Inc. Securities Litigation**, No. 2020 WL 5819548 (S.D.N.Y. 2020)
- **Voulgaris, v. Array Biopharma Inc.**, No. 17CV02789KLMCONSOLID, 2020 WL 8367829 (D. Colo.2020)
- **In Re Aphria, Inc. Securities Litigation**, No. 18 CIV. 11376 (GBD), 2020 WL 5819548 (S.D.N.Y. 2020)
- **In re Clovis Oncology, Inc. Deriv. Litig.**, No. 2019 WL 4850188 (Del. Ch. 2019)
- **Martin v. Altisource Residential Corp.**, No. 2019 WL 2762923 (D.V.I. 2019)
- **In re Navient Corp. Sec. Litig.**, No. 2019 WL 7288881 (D.N.J.2019)
- **In re Bridgestone Inv. Corp.**, No. 789 Fed. App'x 13 (9th Cir. 2019)
- **Klein v. TD Ameritrade Holding Corp.**, No. 327 F.R.D. 283 (D. Neb. 2018)

NICHOLAS I. PORRITT

Partner

Some of Mr. Porritt's recent cases include:

- **Beezley v. Fenix Parts, Inc.**, No. 2018 WL 3454490 (N.D. Ill. 2018)
- **In re PTC Therapeutics Sec. Litig.**, No. 2017 WL 3705801 (D.N.J. 2017)
- **Zaghian v. Farrell**, No. 675 Fed. Appx. 718, (9th Cir. 2017)
- **SEC v. Cuban**, No. 620 F.3d 551 (5th Cir. 2010)
- **Cozzarelli v. Inspire Pharmaceuticals, Inc.**, No. 549 F.3d 618 (4th Cir. 2008)
- **Teachers' Retirement System of Louisiana v. Hunter**, No. 477 F.3d 162 (4th Cir. 2007)
- **In re PTC Therapeutics Sec. Litig.**, No. 2017 WL 3705801 (D.N.J. Aug. 28, 2017)

PUBLICATIONS

- "Current Trends in Securities Litigation: How Companies and Counsel Should Respond," *Inside the Minds. Recent Developments in Securities Law* (Aspatore Press 2010)

EDUCATION

- University of Chicago Law School, J.D., With Honors (1996)
- University of Chicago Law School, LL.M. (1993)
- Victoria University of Wellington, LL.B. (Hons.), With First Class Honors, Senior Scholarship (1990)

AWARDS



- **Gormley magicJack VocalTec Ltd.**, No. 220 F. Supp. 3d 510 (S.D.N.Y. 2016)
- **Carlton v. Cannon**, No. 184 F. Supp. 3d 428 (S.D. Tex. 2016)
- **Zola v. TD Ameritrade, Inc.**, No. 172 F. Supp. 3d 1055 (D. Neb. 2016)
- **In re Energy Recovery Sec. Litig.**, No. 2016 WL 324150 (N.D. Cal. Jan. 27, 2016)
- **In re EZCorp Inc. Consulting Agreement Deriv. Litig.**, No. 2016 WL 301245 (Del. Ch. Jan. 25, 2016)
- **In re Violin Memory Sec. Litig.**, No. 2014 WL 5525946 (N.D. Cal. Oct. 31, 2014)
- **Garnitschnig v. Horovitz**, No. 48 F. Supp. 3d 820 (D. Md. 2014)

ADMISSIONS

- New York (1997)
- District of Columbia (1998)
- United States District Court for the District of Columbia (1999) • United States District Court for the Southern District of New York (2004)
- United States Court of Appeals for the Fourth Circuit (2004)
- United States Court of Appeals for the District of Columbia Circuit (2006)
- United States Supreme Court (2006)
- United States District Court for the District of Maryland (2007) • United States District Court for the Eastern District of New York (2012)
- United States Court of Appeals for the Second Circuit (2014)
- United States Court of Appeals for the Ninth Circuit (2015)
- United States District Court for the District of Colorado (2015) • United States Court of Appeals for the Tenth Circuit (2016)
- United States Court of Appeals for the Eleventh Circuit (2017) • United States Court of Appeals for the Eighth Circuit (2019)
- United States Court of Appeals for the Third Circuit (2019)

MARK S. REICH

Partner



Mark Samuel Reich is a Partner of the Firm. Mark's practice focuses on consumer class actions, including cases involving privacy and data breach issues, deceptive and unfair trade practices, advertising injury, product defect, and antitrust violations. Mark, who has experience and success outside the consumer arena, also supports the Firm's securities and derivative practices.

Mark is attentive to clients' interests and fosters their activism on behalf of class members. Clients he has worked with consistently and enthusiastically endorse Mark's work:

“ Mark attentively guided me through each stage of the litigation, prepared me for my deposition, and ensured that I and other wronged consumers were compensated and that purchasers in the future could not be duped by the appliance manufacturer's misleading marketing tactics.”

Katherine Danielkiewicz, Michigan

“ After my experience working with Mark and his colleague, any hesitancy I may have had in the past about leading or participating in a class action has gone away. Mark expertly countered every roadblock that the corporate defendant tried using to dismiss our case and we ultimately reached a resolution that exceeded my expectations”

Barry Garfinkle, Pennsylvania

MARK S. REICH

Partner

Before joining Levi & Korsinsky, Mark practiced at the largest class action firm in the country for more than 15 years, including 8 years as a Partner. Prior to becoming a consumer and shareholder advocate, Mark practiced commercial litigation with an international law firm based in New York, where he defended litigations on behalf of a variety of corporate clients.

Mark has represented investors in securities litigation, devoted to protecting the rights of institutional and individual investors who were harmed by corporate misconduct. His case work involved **State Street Yield Plus Fund Litig.** (\$6.25 million recovery); **In re Doral Fin. Corp. Sec. Litig., SDNY** (\$129 million recovery); **Lockheed Martin Corp. Sec. Litig.** (\$19.5 million recovery); **Tile Shop Holdings, Inc.** (\$9.5 million settlement); **Curran v. Freshpet Inc.** (\$10.1 million settlement); **In re Jakks Pacific, Inc.** (\$3,925,000 settlement); **Fidelity Ultra Short Bond Fund Litig.** (\$7.5 million recovery); and **Cha v. Kinross Gold Corp.** (\$33 million settlement).

“ Never having been involved in a class action, I was uninformed and apprehensive. Mark and his colleagues not only explained the complexities, but maintained extensive ongoing, communications, involved us fully in all phases of the process; provided appropriate professional counsel and guidance to each participant, and achieved results that satisfied the original goals of the litigation”

Fred Sharp, New York

“ It was a pleasure being represented by Mark. Above all he was patient throughout the tedious process of litigation. He is a good listener and a good communicator, which enhanced my participation and understanding of the process. He also provided excellent follow up throughout, making the process feel more like a team effort.”

Louise Miljenovic, New Jersey

MARK S. REICH

Partner

At his prior firm, Mark achieved notable success challenging unfair mergers and acquisitions in courts throughout the country. Among the M&A litigation that Mark handled or participated in, his notable cases include: **In re Aramark Corp. S'holders Litig.**, where he attained a \$222 million increase in consideration paid to shareholders of Aramark and a substantial reduction to management's voting power – from 37% to 3.5% – in connection with the approval of the going-private transaction; **In re Delphi Fin. Grp. S'holders Litig.**, resulting in a \$49 million post-merger settlement for Class A Delphi shareholders; **In re TD Banknorth S'holders Litig.**, where Mark played a significant role in raising the inadequacy of the \$3 million initial settlement, which the court rejected as wholly inadequate, and later resulted in a vastly increased \$50 million recovery. Mark has also been part of ERISA litigation teams that led to meaningful results, including **In re Gen. Elec. Co. ERISA Litig.**, which resulting in structural changes to company's 401(k) plan valued at over \$100 million, benefiting current and future plan participants.

“ We contacted Mark about our concerns about our oven's failure to perform as advertised. He worked with us to formulate a strategy that ultimately led to a settlement that achieved our and others' goals and specific needs.”

Candace Oliarny, Idaho

“ My wife and I never having been involved with a law firm or Class Action had no idea what to expect. Within the first few phone meetings with Mark, we became assured as Mark explained in detail how the process worked, Mark is a great communicator. Mr. Reich is a true professional, his integrity through the years he worked with us was impeccable. Working with Mark was a truly positive experience, and have no reservations if we ever had to call on his services again.”

Louise Miljenovic, New Jersey

MARK S. REICH

Partner

Before joining the Firm, Mark graduated with a Bachelor of Arts degree from Queens College in New York. He earned his Juris Doctor degree from Brooklyn Law School, where he served on the Moot Court Honor Society and The Journal of Law and Policy.

Mark regularly practices in federal and state courts throughout the country and is a member of the bar in New York. He has been recognized for his legal work by being named a New York Metro Super Lawyer by Super Lawyers Magazine every year since 2013. Mark is active in his local community and has been distinguished for his neighborhood support with a Certificate of Recognition by the Town of Hempstead.

EDUCATION

- Brooklyn Law School, J.D. (2000)
- Queens College, B.A., Psychology and Journalism (1997)

AWARDS



ADMISSIONS

- New York (2001)
- United States District Court for the Southern District of New York (2001)
- United States District Court for the Eastern District of New York (2001)
- United States District Court for the Northern District of New York (2005)
- United States District Court for the Eastern District of Michigan (2017)

DANIEL TEPPER

Partner



Daniel Tepper is a Partner of the Firm with extensive experience in shareholder derivative suits, class actions and complex commercial litigation. Before he joined Levi & Korsinsky, Mr. Tepper was a partner in one of the oldest law firms in New York. He is an active member of the CPLR Committee of the New York State Bar Association and was an early member of its Electronic Discovery Committee. Mr. Tepper has been selected as a New York "Super Lawyer" in 2016 – 2023.

Some of the notable matters where Mr. Tepper had a leading role include:

- **Siegmund v. Bian**, No. 16-62506 (S.D. Fla.), achieving an estimated recovery of \$29.93 per share on behalf of a class of public shareholders of Linkwell Corp. who were forced to sell their stock at \$0.88 per share.
- **In re Platinum-Beechwood Litigation**, No. 18-06658 (S.D.N.Y.), achieved dismissal on behalf of an individual investor in Platinum Partners-affiliated investment fund.
- **Lakatamia Shipping Co. Ltd. v. Nobu Su**, Index No. 654860/2016 (Sup. Ct., N.Y. Co. 2016), achieved dismissal on suit attempting to domesticate a \$40 million UK judgment in New York State.
- **Zelouf Int'l Corp. v. Zelouf**, No. 45 Misc.3d 1205(A) (Sup.Ct. N.Y. Co., 2014), representing the plaintiff in an appraisal proceeding triggered by freeze-out merger of closely-held corporation. Achieved a \$10 million verdict after eleven day trial, with the Court rejecting a discount for lack of marketability.
- **Sacher v. Beacon Assocs. Mgmt. Corp.**, No. 114 A.D.3d 655 (2d Dep't 2014), affirming denial of defendants' motion to dismiss shareholder derivative suit by Madoff feeder fund against fund's auditor for accounting malpractice.
- **In re Belzberg**, No. 95 A.D.3d 713 (1st Dep't 2012), compelling a non-signatory to arbitrate brokerage agreement dispute arising under doctrine of direct benefits estoppel.
- **Estate of DeLeo**, No. 353758/A (Surrog. Ct., Nassau Co. 2011), achieving a full plaintiff's verdict after a seven day trial which restored a multi-million dollar family business to its rightful owner.

DANIEL TEPPER

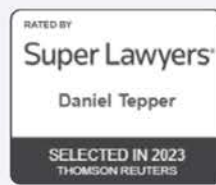
Partner

- **CMIA Partners Equity Ltd. v. O'Neill**, No. 2010 NY Slip Op 52068(U) (Sup. Ct. N.Y. Co., 2010). Representing the independent directors of a Cayman Islands investment fund, won a dismissal on the pleadings in the first New York State case examining shareholder derivative suits under Cayman Islands law.
- **Hecht v. Andover Assocs. Mgmt. Corp.**, No. 27 Misc 3d 1202(A) (Sup. Ct. Nassau Co., 2010), aff'd, 114 A.D.3d 638 (2d Dept 2014). Participated in a \$213 million global settlement in the first Madoff related lawsuit in the country to defeat a motion to dismiss.

EDUCATION

- New York University School of Law, J.D. (2000)
- The University of Texas at Austin, B.A. with Honors (1997), National Merit Scholar

AWARDS



ADMISSIONS

- Massachusetts (2001)
- New York (2002)
- United States District Court for the Eastern District of New York (2004)
- United States District Court for the Southern District of New York (2010)
- United States District Court for the Western District of New York (2019)

ELIZABETH K. TRIPODI

Partner



Elizabeth K. Tripodi focuses her practice on shareholder protection, representing investors in securities fraud litigation, corporate derivative litigation, and litigation involving mergers, acquisitions, tender offers, and change-in-control transactions. Ms. Tripodi has been named as a Washington, D.C. "Super Lawyer" in the securities field and was selected as a "Rising Star" by Thomson Reuters for several consecutive years.

Ms. Tripodi's current representations include:

- **In re Tesla, Inc. Securities Litigation**, No. 3:18-cv-04865-EMC (N.D. Cal.) (lead counsel in class action representing Tesla investors who were harmed by Elon Musk's "funding secured" tweet from August 7, 2018)

Ms. Tripodi has played a lead role in obtaining monetary recoveries for shareholders in M&A litigation:

- **In re Schuff International, Inc. Stockholders Litigation**, No. 10323-VCZ, achieving the largest recovery as a percentage of the underlying transaction consideration in Delaware Chancery Court merger class action history, obtaining an aggregate recovery of more than \$22 million -- a gross increase from \$31.50 to \$67.45 in total consideration per share (a 114% increase) for tendering stockholders
- **In re Bluegreen Corp. S'holder Litig.**, No. 502011CA018111 (Circuit Ct. for Palm Beach Cty., FL), creation of a \$36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders
- **In re Cybex International S'holder Litig**, Index No. 653794/2012 (N.Y. Sup. Ct. 2014), recovery of \$1.8 million common fund, which represented an 8% increase in stockholder consideration in connection with management-led cash-out merger
- **In re Great Wolf Resorts, Inc. S'holder Litig**, No. 7328-VCN (Del. Ch. 2012), where there was a \$93 million (57%) increase in merger consideration

ELIZABETH K. TRIPODI

Partner

- **Minerva Group, LP v. Keane**, Index No. 800621/2013 (N.Y. Sup. Ct. 2013), settlement in which Defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share

Ms. Tripodi has played a key role in obtaining injunctive relief while representing shareholders in connection with M&A litigation, including obtaining preliminary injunctions or other injunctive relief in the following actions:

- **In re Portec Rail Products, Inc. S'holder Litig**, No. G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- **In re Craftmade International, Inc. S'holder Litig**, No. 6950-VCL (Del. Ch. 2011) • **Dias v. Purches, et al.**, No. 7199-VCG (Del. Ch. 2012)
- **In re Complete Genomics, Inc. S'holder Litig**, No. 7888-VCL (Del. Ch. 2012)
- **In re Integrated Silicon Solution, Inc. Stockholder Litig.**, No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Prior to joining Levi & Korsinsky, Ms. Tripodi was a member of the litigation team that served as Lead Counsel in, and was responsible for, the successful prosecution of numerous class actions, including: **Rudolph v. UTStarcom** (stock option backdating litigation obtaining a \$9.5 million settlement); **Grecian v. Meade Instruments** (stock option backdating litigation obtaining a \$3.5 million settlement).

ELIZABETH K. TRIPODI

Partner

EDUCATION

- American University Washington College of Law, *cum laude* (2006), where she served as Co-Editor in Chief of the Business Law Journal (f/k/a Business Law Brief), was a member of the National Environmental Moot Court team, and interned for Environmental Enforcement Section at the Department of Justice
- Davidson College, B.A., Art History (2000)

AWARDS



ADMISSIONS

- Virginia (2006)
- United States District Court for the Eastern District of Virginia (2006)
- District of Columbia (2008)
- United States District Court for the District of Columbia (2010)
- United States Court of Appeals for the Seventh Circuit (2018)



Our Attorneys

Counsel

- **ANDREW E. LENCYK**
- **COURTNEY E. MACCARONE**
- **BRIAN STEWART**

ANDREW E. LENCYK

Counsel



Andrew E. Lencyk is Counsel to the Firm. Prior to joining the Firm, Mr. Lencyk was a partner in an established boutique firm in New York specializing in securities litigation. He was graduated magna cum laude from Fordham College, New York, with a B.A. in Economics and History, where he was a member of the College's Honors Program, and was elected to Phi Beta Kappa. Mr. Lencyk received his J.D. from Fordham University School of Law, where he was a member of the Fordham Urban Law Journal. He was named to the 2013, 2014, 2015, 2016, 2017, 2018 and 2019 Super Lawyers®, New York Metro Edition.

Mr. Lencyk has co-authored the following articles for the Practicing Law Institute's Accountants' Liability Handbooks:

- *Liability in Forecast and Projection Engagements: Impact of Luce v. Edelstein*
 - *An Accountant's Duty to Disclose Internal Control Weaknesses*
 - *Whistle-blowing: An Accountants' Duty to Disclose A Client's Illegal Acts*
- *Pleading Motions under the Private Securities Litigation Reform Act of 1995*
 - *Discovery Issues in Cases Involving Auditors (co-authored and appeared in the 2002 PLI Handbook on Accountants' Liability After Enron.)*

In addition, he co-authored the following article for the Association of the Bar of the City of New York, Corporate & Securities Law Updates:

- *Safe Harbor Provisions for Forward-Looking Statements (co-authored and published by the Association of the Bar of the City of New York, Corporate & Securities Law Updates, Vol. II, May 12, 2000)*

ANDREW E. LENCYK Counsel

Cases in which Mr. Lencyk actively represented plaintiffs include:

- **Kirkland et al. v. WideOpenWest, Inc.**, No. 653248/2018 (Sup. Ct, NY County) (substantially denying defendants' motion to dismiss Section 11 and 12(a)(2) claims)
 - **In re Community Psychiatric Centers Securities Litigation**, No. SA CV-91-533-AHS (Eex) (C.D. Cal.) and McGann v. Ernst & Young, SA CV-93-0814-AHS (Eex) (C.D. Cal.)(recovery of \$54.5 million against company and its outside auditors)
 - **In re Danskin Securities Litigation**, Master File No. 92 CIV. 8753 (JSM) (S.D.N.Y.);
 - **In re JWP Securities Litigation**, Master File No. 92 Civ. 5815 (WCC) (S.D.N.Y.) (class recovery of approximately \$36 million)
 - **In re Porta Systems Securities Litigation**, Master File No. 93 Civ. 1453 (TCP) (E.D.N.Y.);
 - **In re Leslie Fay Cos. Securities Litigation**, No. 92 Civ. 8036 (S.D.N.Y.)((\$35 million recovery)
 - **Berke v. Presstek, Inc.**, No. 96-347-M (MDL Docket No. 1140) (D.N.H.) (\$22 million recovery)
 - **In re Micro Focus Securities Litigation**, No. C-01-01352-SBA-WDB (N.D. Cal.)
 - **Dusek v. Mattel, Inc., et al.**, No. CV99-10864 MRP (C.D. Cal.) (\$122 million global settlement)
 - **In re Sonus Networks, Inc. Securities Litigation-II**, No. 06-CV-10040 (MLW) (D. Mass.)
 - **In re AIG ERISA Litigation**, No. 04 Civ. 9387 (JES) (S.D.N.Y.) (\$24.2 million recovery)
 - **In re Mutual Funds Investment Litigation**, MDL No. 1586 (D. Md.)
 - **In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner**, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md.)
 - **In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter**, MDL No. 15862-AMD – Franklin/Templeton subtrack (D. Md.)
 - **In re AIG ERISA Litigation II**, No. 08 Civ. 5722 (LTS) (S.D.N.Y.) (\$40 million recovery); and
 - **Flynn v. Sientra, Inc.**, No. CV-15-07548 SJO (RAOx) (C.D. Cal.) (\$10.9 million recovery) (co-lead counsel)
- Court decisions in which Mr. Lencyk played an active role on behalf of plaintiffs include:
- **Pub. Empls' Ret. Sys. of Miss. v. TreeHouse Foods**, No. 2018 U.S. Dist. LEXIS 22717 (N.D. Ill. Feb. 12, 2018) (denying defendants' motion to dismiss in its entirety)

ANDREW E. LENCYK

Counsel

- **Flynn v. Sientra, Inc.**, No. 2016 U.S. Dist. LEXIS 83409 (C.D. Cal. June 9, 2016) (denying in substantial part defendants' motions to dismiss Section 10(b), Section 11 and 12(b)(2) claims), motion for reconsideration denied, slip op. (C.D. Cal. Aug 12, 2016)
- **In re Principal U.S. Property Account ERISA Litigation**, No. 274 F.R.D. 649 (S.D. Iowa 2011) (denying defendants' motion to dismiss)
- **In re AIG ERISA Litigation II**, No. 08 Civ. 5722(LTS), 2011 U.S. Dist. LEXIS 35717 (S.D.N.Y. May 31, 2011) (denying in substantial part defendants' motions to dismiss), renewed motion to dismiss denied, slip op. (S.D.N.Y. June 26, 2014)
- **In re Mutual Funds Investment Litigation**, No. 384 F. Supp. 2d 845 (D. Md. 2005) (denying in substantial part defendants' motions to dismiss), *In re Alger, Columbia, Janus, MFS, One Group, Putnam, Allianz Dresdner*, MDL No. 15863-JFM - Allianz Dresdner subtrack (D. Md. Nov. 3, 2005) (denying in substantial part defendants' motions to dismiss), and *In re Alliance, Franklin/Templeton, Bank of America/Nations Funds and Pilgrim Baxter*, MDL No. 15862-AMD - Franklin/Templeton subtrack (D. Md. June 27, 2008) (same)
- **In re AIG ERISA Litigation**, No. 04 Civ. 9387 (JES) (S.D.N.Y. Dec. 12, 2006) (denying defendants' motions to dismiss in their entirety)
- **Dusek v. Mattel, Inc., et al.**, No. CV99-10864 MRP (C.D. Cal. Dec. 17, 2001) (denying defendants' motions to dismiss Section 14(a) complaint in their entirety) • *In re Micro Focus Sec. Litig.*, Case No. C-00-20055 SW (N.D. Cal. Dec. 20, 2000) (denying motion to dismiss Section 11 complaint);
- **Zuckerman v. FoxMeyer Health Corp.**, No. 4 F. Supp.2d 618 (N.D. Tex. 1998) (denying defendants' motion to dismiss in its entirety in one of the first cases decided in the Fifth Circuit under the Private Securities Litigation Reform Act of 1995)
- **In re U.S. Liquids Securities Litigation**, Master File No. H-99-2785 (S.D. Tex. Jan. 23, 2001) (denying motion to dismiss Section 11 claims)
- **Sands Point Partners, L.P., et al. v. Pediatrix Medical Group, Inc., et al.**, No. 99-6181-CIV-Zloch (S.D. Fla. June 6, 2000) (denying defendants' motion to dismiss in its entirety)
- **Berke v. Presstek, Inc.**, No. 96-347-M (MDL Docket No. 1140) (D.N.H. Mar. 30, 1999) (denying defendants' motion to dismiss)
- **Chalverus v. Pegasystems, Inc.**, No. 59 F. Supp. 2d 226 (D. Mass. 1999) (denying defendants' motion to dismiss);

ANDREW E. LENCYK

Counsel

- **Danis v. USN Communications, Inc.**, No. 73 F. Supp. 2d 923 (N.D. Ill. 1999) (denying defendants' motion to dismiss)

EDUCATION

- Fordham University School of Law, J.D. (1992)
- Fordham College, B.A. *magna cum laude*, 1988)

AWARDS



ADMISSIONS

- Connecticut (1992)
- New York (1993)
- United States District Court for the Southern District of New York (2004)
- United States District Court for the Eastern District of New York (2004)
- United States Court of Appeals for the Second Circuit (2015)

COURTNEY E. MACCRONE

Counsel



Courtney E. MacCarone focuses her practice on prosecuting consumer class actions. Prior to joining Levi & Korsinsky, Ms. MacCarone was an associate at a boutique firm in New York specializing in class action litigation. While attending Brooklyn Law School, Ms. MacCarone served as the Executive Symposium Editor of the Brooklyn Journal of International Law and was a member of the Moot Court Honor Society. Her note, "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights" was published in the Spring 2011 edition of the Brooklyn Journal of International Law.

Ms. MacCarone also gained experience in law school as an intern to the Honorable Martin Glenn of the Southern District of New York Bankruptcy Court and as a law clerk at a New York City-based class action firm. Ms. MacCarone has been recognized as a Super Lawyer "Rising Star" for the New York Metro area every year since 2014.

EDUCATION

- Brooklyn Law School, J.D., *magna cum laude* (2011)
- New York University, B.A., *magna cum laude* (2008)

AWARDS



ADMISSIONS

- New Jersey (2011)
- New York (2012)
- United States District Court for the District of New Jersey (2012)
- United States District Court for the Eastern District of New York (2012)
- United States District Court for the Southern District of New York (2012)

BRIAN STEWART

Counsel



Brian Stewart is an Associate with the Firm practicing in the Washington, D.C. office. Prior to joining the firm, Mr. Stewart was an associate at a small litigation firm in Washington D.C. and a regulatory analyst at the Financial Industry Regulatory Authority (FINRA). During law school, he interned for the Enforcement Divisions of the SEC and CFPB.

EDUCATION

- American University Washington College of Law, J.D. (2012)
- University of Washington, B.S., Economics and Mathematics (2008)

ADMISSIONS

- Maryland (2012)
- District of Columbia (2014)
- United States District Court for the District of Maryland (2017)
- United States District Court for the District of Colorado (2017)

A photograph of a person's hands in a dark suit jacket, one hand open and gesturing, the other holding a pen over a document. A brass scale of justice is visible on a wooden desk in the background.

Our Attorneys

Senior Associates

- JORDAN A. CAFRITZ
- MORGAN EMBLETON
- DAVID C. JAYNES
- ADAM C. MCCALL
- CORREY A. SUK

JORDAN A. CAFRITZ

Senior Associate



Jordan Cafritz is an Associate with the Firm's Washington, D.C. office. While attending law school at American University he was an active member of the American University Business Law Review and worked as a Rule 16 attorney in the Criminal Justice Defense Clinic. After graduating from law school, Mr. Cafritz clerked for the Honorable Paul W. Grimm in the U.S. District Court for the District of Maryland.

EDUCATION

- American University Washington College of Law, J.D. (2014)
- University of Wisconsin-Madison, B.A., Economics & History (2010)

ADMISSIONS

- Maryland (2014)
- District of Columbia (2018)

MORGAN EMBLETON

Senior Associate



Morgan M. Embleton is an associate in the Firm's Connecticut office. Since 2018, Ms. Embleton has focused her practice on federal securities class actions and protecting the interests of shareholders of publicly traded companies.

Prior to that, Ms. Embleton litigated matters arising under the False Claims Act, Jones Act, Longshore Harbor Workers' Compensation Act, Louisiana Whistleblower Act, and Louisiana Environmental Whistleblower Act, as well as pharmaceutical mass torts and products liability claims. Ms. Embleton has extensive experience prosecuting securities fraud matters, complex class actions, and multidistrict litigations.

Ms. Embleton received her J.D. and Environmental Law Certificate from Tulane University Law School in 2014. During her time in law school, Ms. Embleton was a student attorney in the Tulane Environmental Law Clinic, a member of the Journal of Technology and Intellectual Property, and the Assistant Director of Research and Development for the Durationator.

EDUCATION

- Tulane University Law School, J.D. and Environmental Law Certificate (2014)
- University of Colorado at Boulder, B.A., *cum laude*, Sociology (2010)

ADMISSIONS

- Louisiana (2014)
- United States District Court for the Eastern District of Louisiana (2015)
- United States District Court for the Middle District of Louisiana (2016)
- United States District Court for the Western District of Louisiana (2016)
- United States Court of Federal Claims (2016)
- United States Court of Appeals for the Fifth Circuit (2016)
- United States Court of Appeals for the Ninth Circuit (2017)
- United States District Court for the Eastern District of Michigan (2020)

DAVID C. JAYNES

Senior Associate



David C. Jaynes focuses his practice on investor protection and securities fraud litigation. In addition to his law degree, Mr. Jaynes has graduate degrees in business administration and finance. Prior to joining the firm, David worked in the Enforcement Division of the U.S. Securities and Exchange Commission in the Salt Lake Regional Office as part of the Student Honors Program. Mr. Jaynes began his career as a prosecutor and has significant trial experience.

While at Levi & Korsinsky, Mr. Jaynes has actively represented plaintiffs in the following securities class actions:

- **In re U. S. Steel Consolidated Cases**, No. 17-579 (W.D. Pa.)
- **Stein v. U.S. Xpress Enterprises, Inc.**, et al., No. 1:19-cv-98-TRM-CHS (E.D. Tenn.)
- **John P. Norton, On Behalf Of The Norton Family Living Trust** UAD 11/15/2002 v. Nutanix, Inc. et al, No. 3:21-cv-04080 (N.D. Cal.)

Mr. Jaynes has also had a role in litigating the following securities actions:

- **Ferraro Family Foundation, Inc. v. Corcept Therapeutics Incorporated**, No.5:19-cv-1372-LHK (N.D. Cal.)
- **The Daniels Family 2001 Revocable Trust v. Las Vegas Sands Corp.**, et al., No. 1:20-cv-08062-JMF (D. Nev.)
- **Dan Kohl v. Loma Negra Compania Industrial Argentina Sociedad Anonima**, et al., Index No. 653114/2018 (Sup. Ct., County of New York)

EDUCATION

- University of Utah, M.S., Finance (2020)
- University of Utah, M.B.A (2020)
- The George Washington University Law School, J.D. (2015)
- Brigham Young University, B.A., Middle East Studies and Arabic (2009)

ADMISSIONS

- Maryland (2015)
- Utah (2016)
- United States District Court for the District of Utah (2016)
- California (2021)
- United States District Court for the Northern District of California (2022)
- United States District Court for the Central District of California (2023)
- District of Colorado (2023)

ADAM C. MCCALL

Senior Associate



Mr. McCall is an Associate with the Firm. Prior to joining Levi & Korsinsky, Mr. McCall was an extern at the Securities and Exchange Commission's Division of Corporate Finance.

EDUCATION

- Georgetown University Law Center, LL.M., Securities and Financial Regulation (2015)
- California Western School of Law, J.D., *cum laude* (2013)
- Santa Clara University, Certificate of Advanced Accounting Proficiency (2010)
- University of Southern California, B.A. Economics (2008)

ADMISSIONS

- California (2014)
- United States District Court for the Central District of California (2015)
- United States District Court for the Eastern District of California (2015)
- United States District Court for the Northern District of California (2015)
- United States District Court for the Southern District of California (2015)
- United States Court of Appeals for the Ninth Circuit (2016)
- District of Columbia (2017)

CORREY A. SUK

Senior Associate



Correy A. Suk is an experienced litigator with a focus on shareholder derivative suits, class actions, and complex commercial litigation. Correy began her career with the Investor Protection Bureau of the Office of the New York State Attorney General and spent four years prosecuting shareholder derivative actions and securities fraud litigation at one of the oldest firms in the country. Prior to joining Levi & Korsinsky, Correy represented both individuals and corporations in complex business disputes at a New York litigation boutique. Correy's unflappable disposition and composure reflect a pragmatic approach to both litigation and negotiation. She thrives under pressure and serves as an aggressive advocate for her clients in the most high-stakes situations. Correy has been recognized as a Super Lawyers Rising Star every year since 2017.

PUBLICATIONS

- "Unsafe Sexting: The Dangerous New Trend and the Need for Comprehensive Legal Reform," 9 Ohio St. J. Crim. L. 405 (2011)

EDUCATION

- The Ohio State University Moritz College of Law, J.D. (2011)
- Georgetown University, B.S.B.A. (2008)

AWARDS



ADMISSIONS

- New Jersey (2011)
- New York (2012)
- United States District Court for the Southern District of New York (2015)
- United States District Court for the Eastern District of New York (2015)
- United States District Court for the District of New Jersey (2016)



Our Attorneys

Associates

- RACHEL BERGER
- AMANDA FOLEY
- NOAH GEMMA
- DEVYN R. GLASS
- GARY ISHIMOTO
- ALEXANDER KROT
- NICHOLAS R. LANGE
- MELISSA MEYER
- CINAR ONEY
- AARON PARNAS
- COLE VON RICHTHOEFEN
- MAX WEISS

RACHEL BERGER

Associate



Rachel Berger is an Associate with the Firm's Connecticut office. Her practice focuses on prosecuting securities fraud class actions on behalf of aggrieved investors.

Prior to joining Levi & Korsinsky, Ms. Berger practiced securities litigation with another top New York class action firm, where she represented classes of aggrieved shareholders and cryptocurrency purchasers against prominent defendants, including multiple Fortune 500 companies.

While in law school, Ms. Berger interned with a leading ESG institute, focusing on the intersection of ESG and securities law. She was also a member of the Fordham Urban Law Journal, the Fordham Mediation and Tax Clinics, and the Immigration Advocacy Project. Ms. Berger received the Paul R. Brenner Scholarship Award, as well as the Archibald R. Murray Public Service Award, cum laude, in recognition of her significant pro bono work.

Ms. Berger practices remotely from her home in St. Louis, Missouri.

EDUCATION

- Fordham University School of Law, J.D. (2019)
- Stern College for Women, Yeshiva University, B.A. Economics (2015)

ADMISSIONS

- New York (2020)
- United States District Court for the Southern District of New York (2020)
- District of Colorado (2023)

AMANDA FOLEY

Associate



Amanda Foley is an Associate in Levi & Korsinsky's Stamford office where she focuses her practice on federal securities litigation.

Prior to joining Levi & Korsinsky, Amanda gained substantial experience at a boutique Boston firm where she was trained in securities and business litigation.

Amanda received her Juris Doctorate degree from Suffolk University Law School with an International Law concentration with Distinction and was selected to join the International Legal Honor Society of Phi Delta Phi. While in law school, Amanda focused her legal education on securities law & regulation, international investment law & arbitration, and business law.

EDUCATION

- Suffolk University Law School, J.D. (2021)
- Colorado State University, B.S. (2011)

ADMISSIONS

- Massachusetts (2021)
- United States District Court for the District of Massachusetts (2022)

NOAH GEMMA

Associate



Noah Gemma worked previously as a summer associate at a boutique commercial litigation firm. There, Mr. Gemma drafted briefs and other legal memoranda on behalf of national and closely held corporations in complex federal and state court litigation. In particular, Mr. Gemma helped the firm: (i) win multiple motions to dismiss on behalf of a national bank and a national bonding company in federal court cases involving alleged fraud and other alleged improprieties; (ii) settle an avoidable preference action on behalf of a national hauling company in a federal bankruptcy proceeding for a small fraction of the alleged damages; (iii) settle a negligence action on behalf of a court appointed fiduciary against officers of a defunct company and its insurance carrier on advantageous terms; and (iv) secure a favorable decision on behalf of a national bonding company before the state supreme court.

Mr. Gemma also served as a judicial intern for the Honorable Judge Bruce M. Selya in the United States Court of Appeals for the First Circuit and for the

Honorable Judge Virginia M. Hernandez Covington in the United States District Court for the Middle District of Florida. Using his experience representing the interests of national and closely held corporations to analyze and assess potential cases of corporate impropriety, Mr. Gemma currently prosecutes corporate and director malfeasance through the preparation and filing of shareholder mergers and acquisitions actions and corporate governance litigation.

EDUCATION

- Georgetown University Law Center, J.D., Editor for *The Georgetown Law Journal* (2021)
- Providence College, B.A. (2018)

ADMISSIONS

- Rhode Island (2021)
- District of Columbia (2022)

DEVYN R. GLASS

Associate



Devyn R. Glass currently focuses her practice on representing investors in federal securities fraud litigation.

Prior to joining the firm, Ms. Glass gained substantial experience at a national boutique firm specializing in complex litigation across a variety of practice areas representing both plaintiffs and defendants. Since 2017, Ms. Glass has focused her practice on consumer and shareholder protection, litigating numerous class action lawsuits across the country that involved data privacy and data breach, deceptive and unfair trade practices, and securities fraud.

At her prior firms, Ms. Glass played a pivotal role in obtaining monetary recoveries and/or injunctive relief on behalf of shareholders and consumers. Notable cases include: *Lowry v. RTI Surgical Holdings, Inc. et al.*, (D. Ill.) (obtaining \$10.5 million on behalf of a shareholder class alleging violations of the federal securities laws); *In re Google Plus Profile Litigation*, (N.D. Cal.) (obtaining \$7.5 million on behalf of a consumer class exposed to a years-long data breach); and *Barrett v. Pioneer Natural Resources USA, Inc.*, (D. Colo.) (obtaining \$500,000 on behalf of more than 8,000 current and former 401(k) plan participants alleging violations of the Employee Retirement Income Security Act).

EDUCATION

- Loyola University College of Law, New Orleans, J.D., *cum laude* (2016), where she received a Certificate of Concentration in Law, Technology and Entrepreneurship, served as a member of the *Loyola Journal of Public Interest Law*, and interned for the Louisiana Second Circuit Court of Appeals
- Louisiana Tech University, B.A., *cum laude* (2013), Political Science, minor in English

ADMISSIONS

- New York (2017)
- District of Columbia (2017)
- United States District Court District of Columbia (2018)
- United States District Court District of Colorado (2018)
- United States Court of Appeals for the Ninth Circuit (2022)

GARY ISHIMOTO

Associate



Gary Ishimoto is an Associate working remotely with Levi and Korsinsky's Consumer Litigation Team. During law school, he worked at the Small Business Law Clinic helping to draft incorporation papers, non-compete clauses, IP assignments, board consent, and stock purchase agreements for start-up businesses. He also interned for the Rossi Law Group.

EDUCATION

- Pepperdine School of Law, J.D. (2020)
- California State University, Northridge, B.S. (2013)

ADMISSIONS

- Massachusetts (2021)
- New Hampshire (2022)

ALEXANDER KROT

Associate



EDUCATION

- American University, Kogod School of Business, M.B.A. (2012)
- Georgetown University Law Center, LL.M., Securities and Financial Regulation, With Distinction (2011)
- American University Washington College of Law, J.D. (2010)
- The George Washington University, B.B.A., concentrations in Finance and International Business (2003)

ADMISSIONS

- Maryland (2011)
- District of Columbia (2014)
- United States District Court for the District of Colorado (2015)
- United States Court of Appeals for the Tenth Circuit (2016)
- United States District Court for the Eastern District of Wisconsin (2017)
- United States Court of Appeals for the Third Circuit (2018)
- United States Court of Appeals for the Ninth Circuit (2020)

NICHOLAS R. LANGE

Associate



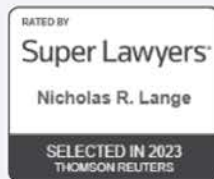
Based in Chicago, Illinois, Nicholas R. Lange is a remote member of the Firm's Connecticut office, where he focuses his practice in investor fraud and federal securities litigation. Prior to joining the Firm, Nicholas specialized in complex class action litigation and multi-district proceedings, including participation in some of the country's largest actions, with a focus in technology and consumer privacy.

As recognition for his class action work, Nicholas R. Lange received the Super Lawyers Rising Star award for 2023 (Class Action/Mass Torts).

EDUCATION

- DePaul University College of Law, J.D. (2014)
- University of Illinois and Urbana/Champaign, B.A. (2011)

AWARDS



ADMISSIONS

- Illinois (2014)
- United States District Court for the Northern District of Illinois (2016)
- United States District Court for the Southern District of Illinois (2020)
- United States District Court for the District of Colorado (2020)

MELISSA MEYER

Associate



Melissa Meyer is an Associate with the Firm's New York Office focusing on federal securities litigation. Ms. Meyer previously worked as a paralegal for the New York office while attending law school.

EDUCATION

- New York Law School, J.D., Dean's Scholar Award, member of the Dean's Leadership Council (2018)
- John Jay College of Criminal Justice, B.A. (2013), *magna cum laude*

ADMISSIONS

- New York (2019)
- United States District Court for the Southern District of New York (2020)

CINAR ONEY

Associate



Cinar Oney is an Associate in Levi & Korsinsky's New York office. His practice focuses on investigation and analysis of various forms of corporate misconduct, including excessive compensation, insider trading, unfair self-dealing, and corporate waste. He develops litigation strategies through which shareholders can pursue recoveries.

Prior to joining Levi & Korsinsky, Mr. Oney practiced with top firms in Turkey, where he represented shareholders, corporations, and governmental entities in commercial disputes and transactional matters.

PUBLICATIONS

- *FinTech Industrial Banks and Beyond: How Banking Innovations Affect the Federal Safety Net*, 23 FORDHAM J. CORP. & FIN. L. 541 (2018)

EDUCATION

- Fordham University School of Law, J.D. (2019)
- International University College of Turin, LL.M. (2014)
- Istanbul University Faculty of Law, Undergraduate Degree in Law (2011)

ADMISSIONS

- New York (2020)

AARON PARNAS

Associate



Aaron Parnas is an Associate in the firm's Washington, D.C. office. Prior to joining Levi & Korsinsky, Aaron served as a law clerk for the Honorable Sheri Polster Chappell in the United States District Court for the Middle District of Florida.

While in law school, Aaron was a student attorney for the Criminal Appeals and Post-Conviction Series Clinic along with the Vaccine Injury Litigation Clinic, where he litigated matters in front of the Maryland Court of Special Appeals and the Court of Federal Claims, respectively. As a result of his successes, Aaron was named the top advocate in his graduating class and received the Graduation Award for Excellence in Pre-Trial and Trial Advocacy.

EDUCATION

- The George Washington University Law School, with Honors (2020), where he served as the Managing Editor, Vol. 52 of The George Washington International Law Review
- Florida Atlantic University, B.A., Political Science and Criminal Justice, with Honors (2017)

ADMISSIONS

- Florida (2020)
- United States District Court for the Southern District of Florida (2021)
- District of Columbia (pending)*

*Pending admission to the D.C. bar, practicing under the supervision of a D.C. licensed attorney

COLE VON RICHTHOFEN

Associate



Cole von Richthofen is an Associate in Levi & Korsinsky's Connecticut office. As a law student, he interned with the honorable Judge Thomas Farrish in the District of Connecticut's Hartford courthouse with an emphasis on settlements. He has also interned with the Office of the Attorney General for the State of Connecticut in the Employment Rights Division. While attending law school, Cole served as an Executive Editor of the Connecticut Public Interest Law Journal and as a member of the Connecticut Moot Court Board.

EDUCATION

- University of Connecticut School of Law, J.D. (2022)
- University of Connecticut, B.S., Business & Marketing (2015)

ADMISSIONS

- Connecticut (2022)

MAX WEISS

Associate



Max Weiss focuses his practice on investor protection and securities fraud litigation. He is proficient in litigation, legal research, motion practice, case evaluation and settlement negotiation. Prior to joining the firm, Max practiced in the general liability area and has extensive experience litigating high-exposure personal injury claims in New York State and federal trial and appellate courts. While in law school, Max gained experience helping pro se debtors prepare and file Chapter 7 and Chapter 13 petitions with the New York Legal Assistance Group (**NYLAG**) Bankruptcy Project and served as an intern to the Honorable Sean Lane of the Southern District of New York Bankruptcy Court.

EDUCATION

- St. John's School of Law, J.D. (2018), where he served as the Senior Executive Editor of the Journal of Civil Rights & Economic Development
- Colgate University, B.A., Political Science (2011)

ADMISSIONS

- New York (2019)
- United States District Court for the Southern District of New York (2019)
- United States District Court for the Eastern District of New York (2019)

EXHIBIT “E”

Select Ninth Circuit Cases with 33% or Above Fee Awards		
Case	Settlement Amount	Fee Award
<i>Perez v. Rash Curtis & Assocs.</i> , No. 16-cv-03396, 2020 WL 1904533, at *15 (N.D. Cal. Apr. 17, 2020)	\$267,349,000	33⅓%
<i>In re Apollo Grp. Inc. Sec. Litig.</i> , No. 04-cv-02147, 2012 WL 1378677, at *7 (D. Ariz. Apr. 20, 2012)	\$145,000,000	33.33%
<i>In re Lidoderm Antitrust Litig.</i> , No. 14-md-02521, 2018 WL 4620695, at *4 (N.D. Cal. Sept. 20, 2018)	\$104,750,000	33⅓%
<i>Meijer, Inc. v. Abbott Labs.</i> , No. 07-cv-05985, 2011 WL 13392313, at *2 (N.D. Cal. Aug. 11, 2011)	\$52,000,000	33.33%
<i>Beaver v. Tarsadia Hotels</i> , No. 11-cv-01842, 2017 WL 4310707, at *12 (S.D. Cal. Sept. 28, 2017)	\$51,150,000	33⅓%
<i>Hageman v. AT&T Mobility LLC</i> , No. 13-cv-00050, 2015 WL 9855925, at *4 (D. Mon. Feb. 11, 2015)	\$45,000,000	33⅓%
<i>Carlin v. DairyAmerica, Inc.</i> , 380 F. Supp. 3d 998, 1023 (E.D. Cal. 2019)	\$40,000,000	33.30%
<i>Thomas & Thomas Rodmakers Inc. v. Newport Adhesives and Composites, Inc.</i> , No. 99-cv-07796, ECF No. 802 (C.D. Cal. Oct. 18, 2005)	\$36,250,000	33.13%
<i>In re Public Service Co. of New Mexico</i> , No. 91-0536M, 1992 WL 278452, at *12 (S.D. Cal. July 28, 1992)	\$33,000,000	33.00%
<i>Bickley v. Schneider Nat'l Carriers, Inc.</i> , No. 08-cv-05806, 2016 WL 6910261, at *3-4 (N.D. Cal. Oct. 13, 2016)	\$28,000,000	33⅓%
<i>In re Heritage Bond Litig.</i> , No. 02-ml-1475, 2005 WL 1594403, at *23 (C.D. Cal. June 10, 2005)	\$27,783,000	33.33%
<i>Wren v. RGIS Inventory Specialists</i> , No. 06-cv-05778, 2011 WL 1230826, at *29 (N.D. Cal. Apr. 1, 2011)	\$27,000,000	42.00%
<i>In re Tezos Sec. Litig.</i> , No. 17-cv-06779, ECF No. 262 (N.D. Cal. Aug 28, 2020)	\$25,000,000	33.33%
<i>Dakota Medical, Inc. v. RehabCare Grp., Inc.</i> , No. 14-cv-02081, 2017 WL 4180497, at *9-10 (E.D. Cal. Sept. 21, 2017)	\$25,000,000	33⅓%
<i>NECA-IBEW Pension Trust Fund v. Precision Castparts Corp.</i> , No. 16-cv-01756, ECF No. 169 (D. Or. May 7, 2021)	\$21,000,000	33.30%
<i>Abdullah v. U.S. Security Associates, Inc.</i> , No. 09-cv-09554, 2017 WL 11630767, at *8 (C.D. Cal. Dec. 4, 2017)	\$20,613,339	33⅓%
<i>In re Banc of Cal. Sec. Litig.</i> , No. 17-cv-00118, 2020 WL 1283486, at *1 (C.D. Cal. Mar. 16, 2020)	\$19,750,000	33.00%
<i>Waldbuesser v. Northrop Grumman Corp.</i> , No. 06-cv-06213, 2017 WL 9614818, at *3 (C.D. Cal. Oct 24, 2017)	\$16,750,000	33⅓%
<i>Morris v. Lifescan, Inc.</i> , 54 Fed. App'x 663, 664 (9th Cir. 2003)	\$14,800,000	33.00%
<i>In re Allied Nevada Gold Corp. Sec. Litig.</i> , No. 14-cv-00175, ECF No. 215 (D. Nev. Nov. 16, 2020)	\$14,000,000	33⅓%
<i>Good Morning to You Prods. Corp. v. Warner/Chappell Music, Inc.</i> , No. 13-cv-04460, ECF No. 370 (C.D. Cal. Aug. 16, 2016)	\$14,000,000	33.00%
<i>Tawfilis v. Allergan, Inc.</i> , No. 15-cv-00307, 2018 WL 4849716, at *7 (C.D. Cal. Aug. 27, 2018)	\$13,450,000	33⅓%
<i>Kendall v. Odonate Therapeutics, Inc.</i> , No. 20-cv-01828, 2022 WL 1997530, at *6-7 (S.D. Cal. June 6, 2022)	\$12,750,000	33⅓%
<i>Marshall v. Northrop Grumman Corp.</i> , No. 16-cv-06794, 2020 WL 5668935, at *9 (C.D. Cal. Sept. 18, 2020)	\$12,375,000	33⅓%
<i>In re Pacific Enters. Sec. Litig.</i> , 47 F.3d 373, 379 (9th Cir. 1995)	\$12,000,000	33.00%
<i>Singh v. Roadrunner Intermodal Servs., LLC</i> , No. 15-cv-01497, 2019 WL 316814, at *9 (E.D. Cal. Jan. 24, 2019)	\$9,250,000	33⅓%

Select Ninth Circuit Cases with 33% or Above Fee Awards		
Case	Settlement Amount	Fee Award
<i>Jenson v. First Tr. Corp.</i> , No. CV 05-03124, 2008 WL 11338161, at *16 (C.D. Cal. June 9, 2008)	\$8,500,000	33⅓%
<i>Fernandez v. Victoria Secret Stores, LLC</i> , No. 06-cv-04149, 2008 WL 8150856, at *16 (C.D. Cal. July 21, 2008)	\$8,500,000	34.00%
<i>Vigueras v. Red Robin Inter'l, Inc.</i> , No. 17-cv-01422, ECF No. 182 (C.D. Cal. Dec. 2, 2020)	\$8,500,000	33.33%
<i>Jones v. CertifiedSafety, Inc.</i> , No. 17-cv-02229, ECF No. 232 (N.D. Cal. June 1, 2020)	\$6,000,000	33.33%
<i>Linney v. Cellular Alaska P'ship</i> , No. 96-cv-03008, 1997 WL 450064, at *7 (N.D. Cal. July 18, 1997)	\$6,000,000	33⅓%
<i>Boyd v. Bank of Am. Corp.</i> , No. 13-cv-00561, 2014 WL 6473804, at *9 (C.D. Cal. Nov. 18, 2014)	\$5,800,000	33⅓%
<i>In re Interlink Elec., Inc. Sec. Litig.</i> , No. 05-cv-08133, ECF No. 165 (C.D. Cal. June 1, 2009)	\$5,000,000	33⅓%
<i>Berry v. Urban Outfitters Wholesale, Inc.</i> , No. 13-cv-02628, ECF No. 114 (N.D. Cal. Apr. 7, 2016)	\$5,000,000	33.33%
<i>In re Orexigen Therapeutics, Inc. Sec. Litig.</i> , No. 15-cv-00540, ECF No. 155 (S.D. Cal. Nov. 30, 2021)	\$4,800,000	33.00%
<i>Hodges v. Akeena Solar, Inc.</i> , No. 09-cv-02147, ECF No. 167 (N.D. Cal. Dec. 15, 2011)	\$4,770,000	33⅓%
<i>Aguilar v. Wawona Frozen Foods</i> , No. 15-cv-00093, 2017 WL 2214936, at *6 (E.D. Cal. May 19, 2017)	\$4,500,000	33⅓%
<i>West v. Cal. Serv. Bureau, Inc.</i> , No. 16-cv-03124, ECF No. 128 (N.D. Cal. Jan. 23, 2019)	\$4,100,000	33.30%
<i>Cook v. Atossa Genetics, Inc.</i> , No. 13-cv-01836, ECF No. 98 (W.D. Wash. July 20, 2018)	\$3,500,000	33.00%
<i>Mathein v. Pier 1 Imports (U.S.), Inc.</i> , No. 16-cv-00087, 2018 WL 1993727, at *8 (E.D. Cal. Apr 27, 2018)	\$3,500,000	33⅓%
<i>In re K12 Inc. Sec. Litig.</i> , No. 16-cv-04069, 2019 WL 3766420, at *1 (N.D. Cal. July 10, 2019)	\$3,500,000	33.00%
<i>Wise v. Ultra Salon, Cosmetics & Fragrance, Inc.</i> , No. 17-cv-00853, 2020 WL 1492672, at *6-7 (E.D. Cal. Mar. 27, 2020)	\$3,400,000	33⅓%
<i>Vandervort v. Balboa Cap. Corp.</i> , 8 F.Supp.3d 1200, 1210 (C.D. Cal. 2014)	\$3,300,000	33.00%
<i>Antonopoulos v. N. Am. Thoroughbreds, Inc.</i> , No. 87-cv-00979, 1991 WL 427893, at *4 (S.D. Cal. May 6, 1991)	\$3,098,000	33⅓%
<i>In re Mikohn Gaming Corp. Sec. Litig.</i> , No. 05-cv-1410, ECF No. 96 (D. Nev. June 12, 2007)	\$2,800,000	33.33%
<i>In re Resonant Inc. Sec. Litig.</i> , No. 15-cv-01970, ECF No. 154 (C.D. Cal. Nov. 20, 2017)	\$2,750,000	33.00%
<i>In re 2TheMart.com, Inc. Sec. Litig.</i> , No. 99-cv-1127, ECF No. 161 (C.D. Cal. July 8, 2002)	\$2,700,000	33⅓%
<i>Elliot v. China Green Agric. Inc.</i> , No. 10-cv-00648, ECF No. 166 (D. Nev. Aug. 12, 2014)	\$2,500,000	33⅓%

Select Ninth Circuit Cases with 33% or Above Fee Awards		
Case	Settlement Amount	Fee Award
<i>In re Merix Corp. Sec. Litig.</i> , No. 04-cv-00826, ECF No. 236 (D. Or. Jan. 3, 2011)	\$2,500,000	33.33%
<i>Brulee v. DAL Global Servs., LLC</i> , No. 17-cv-06433, ECF No. 51 (C.D. Cal. Dec 13, 2018)	\$2,500,000	33.33%
<i>Emmons v. Quest Diagnostics Clinical Labs., Inc.</i> , No. 13-cv-00474, 2017 WL 749018, at *8-9 (E.D. Cal. Feb. 27, 2017)	\$2,350,000	33⅓%
<i>Cheng Jiangchen v. Rentech, Inc.</i> , No. 17-cv-01490, 2019 WL 5173771, at *9, *11 (C.D. Cal. Oct. 10, 2019)	\$2,050,000	33⅓%
<i>Yaron v. Intersect ENT, Inc.</i> , No. 19-cv-02647, ECF No. 80 (N.D. Cal. Nov. 5, 2021)	\$1,900,000	33⅓%
<i>Likas v. ChinaCache Int'l Holdings Ltd.</i> , No. 19-cv-06942, ECF No. 95 (C.D. Cal. Mar. 14, 2022)	\$1,800,000	33.30%
<i>In re Mego Fin. Corp. Sec. Litig.</i> , 213 F.3d 454, 463 (9th Cir. 2000)	\$1,725,000	33⅓%
<i>In re AudioEye, Inc. Sec. Litig.</i> , No. 15-cv-00163, ECF No. 100 (D. Ariz. May 8, 2017)	\$1,525,000	33.33%

EXHIBIT “F”

Plaintiffs' Firm Name	Case Name	Citation	Non-Partner Attorneys' Fee Range	Partners' Fee Range
Pomerantz LLP	Pirnik v. Fiat Chrysler et al., No. 1:15-cv-07199	(S.D.N.Y.) (Sept. 2019) (Dkt. No. 361)	\$450 - \$600	\$750 - \$950
	In Re Yahoo! Inc. Securities Litigation, No. 17-cv-00373-LHK	(N.D. Cal.) (Aug. 2018) (Dkt. No. 108)	\$350 - \$705	\$725 - \$925
	In re Petrobras Securities Litigation, No. 14-cv-9662 (JSR)	(S.D.N.Y.) (Apr. 2018) (Dkt. No. 789-16)	\$300 - \$765	\$700 - \$1,000
Robbins Geller Rudman & Dowd LLP	In re ADT Inc. Shareholder Litigation, No. 502018CA003494XXXXMB-AG	(Fla.Cir.Ct.) (Dec. 16, 2020)	\$400 - \$745	\$820 - \$1325
	David N. Zimmerman vs. Diplomat Pharmacy, Inc., et al., No. 2:16-cv-14005-LC-SPB	(E.D. Mich.) (July 2019) (Dkt No. 70)	\$400-\$1,030	\$800 - \$1,250
Keker, Van Nest & Peters LLP	OpenGov, Inc. v. GTY Technology Holdings Inc. et al, No. 3:18-cv-07198-JSC	(N.D. Cal.) (Mar. 2019) (Dkt. No. 40-1)	\$775 - \$1,075 ("Of Counsel" rates)	\$700 - \$1,500
	Osuegbu v. AMN Healthcare, Inc., et al., No. 3:16-cv-02816-JCS	(N.D. Cal.) (Feb. 2019) (Dkt. No. 162-4)	\$340 - \$500 ("2017 Rates")	\$525 - \$975 ("2017 Rates")
Motley Rice LLC	In re Investment Technology Group, Inc. Securities Litigation, No. 15-cv-06369	(S.D.N.Y.) (Jan. 2019) (Dkt. No. 119)	\$300 - \$750	\$775 - \$1,050
Cohen Milstein Sellers & Toll, PLLC	In re Ability, Inc. Securities Litigation, No. 1:16-cv-03893-VM	(S.D.N.Y.) (Aug. 2018) (Dkt. No. 89-4)	\$530 (Only one rate listed)	\$630 - \$900
	In re ITT Educational Services, Inc. Securities Litigation, No. 1:13-cv-01620-JPO-JLC	(S.D.N.Y.) (Feb. 2016) (Dkt. No. 88)	\$420 - \$550	\$530 - \$915
Bernstein Litowitz Berger & Grossman LLP	In re RH, Inc. Securities Litigation, No. 4:17-cv-0054-YGR	(N.D. Cal.) (Oct. 2019) (Dkt. No. 145-4)	\$350 - \$775	\$800 - \$1,300
	In re Allergan, Inc. Proxy Violation Securities Litigation, No. 8:14-cv-02004-DOC-KESx	(C.D. Cal.) (Apr. 2018) (Dkt. No. 619-4)	\$340 - \$750	\$750 - \$1,250

Plaintiffs' Firm Name	Case Name	Citation	Non-Partner Attorneys' Fee Range	Partners' Fee Range
Kessler Topaz Meltzer & Check, LLP	Beach, et al. vs. JPMorgan Chase Bank, et al., Co 1:17-cv-00563-JMF	(S.D.N.Y.) (Aug. 2020) (Dkt. No. 225-3)	\$350 - \$690	\$700 - \$920
	In re Allergan, Inc. Proxy Violation Securities Litigation, No. 8:14-cv-02004-DOC-KESx	(C.D. Cal.) (Apr. 2018) (Dkt. No. 619-5)	\$350 - \$675	\$550 - \$850
Grant & Eisenhofer P.A.	In re Foreign Exchange Benchmark Rates Antitrust Litigation, No. 1:13-cv-07789-LGS	(S.D.N.Y.) (Jan. 2018) (Dkt. No. 939-17)	\$325 - \$720	\$850 - \$925
Hausfeld LLP	In re Foreign Exchange Benchmark Rates Antitrust Litigation, No. 1:13-cv-07789-LGS	(S.D.N.Y.) (Jan. 2018) (Dkt. No. 939-3)	\$350 - \$500	\$630 - \$1,375
Labaton Sucharow LLP	In re Foreign Exchange Benchmark Rates Antitrust Litigation, No. 1:13-cv-07789-LGS	(S.D.N.Y.) (Jan. 2018) (Dkt. No. 939-6)	\$335 - \$775	\$875 - \$950
Scott+Scott, Attorneys at Law, LLP	In re Foreign Exchange Benchmark Rates Antitrust Litigation, No. 1:13-cv-07789-LGS	(S.D.N.Y.) (Jan. 2018) (Dkt. No. 939-2)	\$400 - \$710	\$775 - \$995
Boies, Schiller & Flexner LLP	Erica P John Fund Inc et al v. Halliburton Company et al, No. 3:02-cv-01152-M	(N.D. Tex.) (July 2017) (Dkt. No. 819)	\$170 - \$870	\$350 - \$1,650
Lieff Cabraser Heimann & Bernstein, LLP	In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, No. 15-md-02672	(N.D. Cal.) (Nov. 2016) (Dkt. No. 2175-1)	\$150 - \$790	\$275 - \$1,600
Quinn Emanuel Urquhart & Sullivan, LLP	In re Credit Default Swaps Antitrust Litigation, No. 13-md-2476 (DLC)	(S.D.N.Y.) (Jan. 2016) (Dkt. No. 482)	\$411 - \$714	\$834 - \$1,125

Defense Firm Name	Case Name	Citation	Non-Partner Attorneys' Fee Range	Partners' Fee Range
Paul, Weiss, Rifkind, Harton & Garrison LLP	In re Diamond Offshore Drilling, Inc., <i>et al.</i> , Debtors, No. 20-32307 (DRJ)	(Bankr. S.D.N.Y.) (Dec. 2020) (Dkt. No. 766)	Counsel: \$1,200.00 Associate: \$861.88 (Blended Hourly Rates)	\$1,503.72 (Blended Hourly Rate)
	In re Hexion Topco, LLC, Reorganized Debtors, No. 19-10684 (KG)	(Bankr. D. Del.) (Jul. 2019) (Dkt. No. 1093)	\$640 - \$1,125	\$1,165 - \$1,560
	In re Sears Holdings Corporation, <i>et al.</i> , Debtors, No. 18-23538 (RDD)	(Bankr. S.D.N.Y.) (Apr. 2019) (Dkt. No. 3207)	\$640 - \$1,160 (Associates and Counsel)	\$1,165 - \$1,560
Billie Farr & Gallagher LLP	In re Frontier Communications Corporation, <i>et al.</i> , Debtors, No. 20-22476 (RDD)	(Bankr. S.D.N.Y.) (Nov. 2020) (Dkt. No. 1365)	Counsel: \$1,270.48 Associate: \$896.98 (Non-Bankruptcy Blended Hourly Rate, New York)	\$1,447.80 (Non-Bankruptcy Blended Hourly Rate, New York)
	In re Imerys Talc America, Inc., <i>et al.</i> , Debtors, No. 19-10289 (LSS)	(Bankr. D. Del.) (Nov. 2020) (Dkt. No. 2554)	Associates: \$515 - \$1,100	\$1,200 - \$1,600
Norton Rose Fulbright US LLP	In re TRIVASCULAR SALES LLC, <i>et al.</i> , No. 20-31840-SGJ	(Bankr. E.D. Tex.) (Aug. 2020) (Dkt No. 291)	Counsel: \$670 - \$1,225 Associate: \$355 - \$855	\$700 - \$1,350
King & Spalding LLP	In re Briggs & Stratton Corporation, <i>et al.</i> , Debtors, No. 20-43597	(Bankr.E.D. Mo.) (Jul. 2020) (Dkt No. 194)	Counsel: \$750 - \$1,005 Associate: \$440 - \$750	\$820 - \$1,290
O'Melveny & Myers LLP	In re Remington Outdoor Company, Inc., <i>et al.</i> , Debtors, No. 20-81688-11	(Bankr. N.D. Ala.) (Jul. 2020) (Dkt. No. 24)	\$545 - \$995	\$955 - \$1,555
	In re The Financial Oversight and Management Board for Puerto Rico, as representative of The Commonwealth of Puerto Rico, <i>et al.</i> , Debtors, No. 17-BK-3283-LTS	(D.P.R.) (Apr. 2020) (Dkt. No. 12907)	Counsel Associate: \$659 (Domestic offices rates for FY2019, excluding restructuring matters)	\$1,019 (Domestic offices rates for FY2019, excluding restructuring matters)

Defense Firm Name	Case Name	Citation	Non-Partner Attorneys' Fee Range	Partners' Fee Range
Cleary Gottlieb Steen & Hamilton LLP	In re LATAM Airlines Group S.A., <i>et al.</i> , Debtors, No. 20-11254 (JLG)	(Bankr. S.D.N.Y.) (Aug. 2020) (Dkt. No. 967)	Counsel Senior Attorneys: \$1,130 - \$1,215 Associates: \$770 - \$955 (First-year Associates: \$565 - \$670) Staff Protect Attorneys: \$420 - \$495	\$1,065 - \$1,525
	In re Nortel Networks Inc., <i>et al.</i> , Ind-Down Debtors and Debtor-In-Possession, No. 09-10138 (KG)	(Bankr. D. Del.) (Nov. 2019) (Dkt. No. 18778)	Senior Attorney: \$1,075 (Only one rate listed) Associates: \$535 - \$900	\$1,395 (Only one rate listed)
Sidley Austin LLP	In re Boy Scouts of America and Delaware BSA, LLC, Debtors, No. 20-10343 (LSS)	(Bankr. D. Del.) (Jun. 2020) (Dkt. No. 760)	Counsel: \$925 - \$1,000 Associates: \$570 - \$955 (\$550 for Associate pending Admission)	\$1,100 - \$1,375
	In re Borden Dairy Company, <i>et al.</i> , Debtors, No. 20-10010 (CSS)	(Bankr. D. Del.) (Feb. 2020) (Dkt. No. 264)	Senior Counsel and Counsel: \$775 - \$1,750 Associates: \$570 - \$960 Paraprofessionals: \$250 - \$470	\$1,000 - \$1,800

Defense Firm Name	Case Name	Citation	Non-Partner Attorneys' Fee Range	Partners' Fee Range
Akin Gump Strauss Hauer & Feld LLP	In re True Religion Apparel Inc., <i>et al.</i> , Debtors, No. 20-10941 (CSS)	(Bankr. D. Del.) (May 2020) (Dkt. No. 216)	Senior Counsel & Counsel: \$735 - \$1,510 Associates: \$535 - \$960	\$995 - \$1,995
	In re Purdue Pharma L.P., <i>et al.</i> , Debtors, No. 19-23649 (RDD)	(Bankr. S.D.N.Y.) (Mar. 2020) (Dkt. No. 947)	Senior Counsel & Counsel: \$850 - \$1,110 Associates: \$535 - \$810 Staff Attorneys & Paraprofessional: \$205 - \$625 ("2020 Rate")	\$1,075 - \$1,655 ("2020 Rate")
Freshfields Bruckhaus Deringer LLP	In re Expro Holdings US Inc., <i>et al.</i> , Debtors, No. 17-60179 (DRJ)	(Bankr. S.D. Tex.) (Dec. 2017) (Dkt. No. 154)	Counsel: \$1,065 (Only one rate listed) Associates: \$545 - \$965	\$1,165 - \$1,250
Vinson & Elkins LLP	In re Cloud Peak Energy Inc., <i>et al.</i> , Debtors, No. 19-11047 (KG)	(Bankr. D. Del.) (Sept. 2019) (Dkt. No. 663)	Counsel: \$1,010 - \$1,070 Associates: \$525 - \$1,065	\$1,070 - \$1,550
	In re Taco Bueno Restaurants, Inc., <i>et al.</i> , Reorganized Debtors, No. 18-33678	(Bankr. N.D. Tex.) (Feb. 2019) (Dkt. No. 308)	Counsel*: \$830 - \$915 Associates*: \$450 - \$945 *10 discount later applied	\$945 - \$1,280* *10 discount later applied
	In re HGIM Holdings, LLC, <i>et al.</i> , Reorganized Debtors, No. 18-31080 (DRJ)	(Bankr. S.D. Tex.) (Aug. 2018) (Dkt. No. 257)	\$490 - \$875	\$1,070 - \$1,150
Ropes & Gray LLP	In re Weatherford International plc, <i>et al.</i> , Debtors, No. 19-33694 (DRJ)	(Bankr. S.D. Tex.) (Aug. 2019) (Dkt. No. 276)	\$580 - \$1,050	\$1,150 - \$1,520

*Listed in order of filing date.

Defense Firm Name	Case Name	Citation	Non-Partner Attorneys' Fee Range	Partners' Fee Range
Jones Day	In re Bestwall LLC, Debtor, No. 17-31795 (LTB)	(Bankr. D.N.C.) (July 2019) (Dkt. No. 903)	\$450 - \$950	\$1,025 - \$1,200
	In re Caesars Entertainment Operating Company, Inc., et al., Debtors, No. 15-01145 (ABG)	(Bankr. N.D. Ill.) (Nov. 2017) (Dkt. No. 7625-4)	Of Counsel*: \$700 - \$1,000 Associates*: \$325 - \$850 *not including "ad ustments"	\$800 - \$1,125* *not including "ad ustments"
Milbank LLP	In re PG&E Corporation and Pacific Gas and Electric Company, Debtors, No. 19-30088 (DM)	(N.D. Cal.) (July 2019) (Dkt. No. 3117)	\$843 - \$1,076 (Blended Associate - Counsel rates, billed Feb - May 2019)	\$1,479 (Blended Partner rate, billed Feb - May 2019)
	In re Gymboree Group, Inc., et al., Debtors, No. 19-30258 (KLP)	(Bankr. E.D. Va.) (Jan. 2019) (Dkt. No. 163)	\$450 - \$1,315 (Milbank U.S. "standard" range)	\$1,155 - \$1,540 (Milbank U.S. "standard" range)
Simpson Thacher & Bartlett LLP	In re Arsenal Energy Holdings LLC, Reorganized Debtor, No. 19-10226 (BLS)	(Bankr. D. Del.) (Feb. 2019) (Dkt. No. 77)	\$590* - \$1,220 (\$590 hr for pending bar admission starting at \$840 for a 1st year associate)	\$1,425 - \$1,535
	In re FR Dixie Acquisition Sub Corp., Reorganized Debtor, No. 18-12476 (KG)	(Bankr. D. Del.) (Feb. 2019) (Dkt. No. 26)	\$540 - \$1,170	\$1,350 - \$1,550
Wilson Sonsini Goodrich & Rosati	In re Tintri, Inc., Debtor, No. 18-11625 (KJC)	(Bankr. D. Del.) (Nov. 2018) (Dkt. No. 291)	\$510 - \$715	\$950 - \$1,350* *Listed as "Member" rates
Neil, Gotshal & Manges LLP	In re Sears Holdings Corporation, et al., Debtors, No. 18-23538 (RDD)	(Bankr. S.D.N.Y.) (Oct. 2018) (Dkt. No. 344)	\$560 - \$995	\$1,075 - \$1,600
Shearman & Sterling LLP	In re Hodyon, Inc., Reorganized Debtor, No. 18-10386 (MF)	(Bankr. D. Del.) (Aug. 2018) (Dkt. No. 26)	\$495 - \$1,295* *5-10 discount applied to some	\$1,165 - \$1,325* *5-10 discount applied to some
Mayer Brown LLP	In re Scottish Holdings, Inc., et al., Debtors, No. 18-10160 (LSS)	(Bankr. D. Del.) (Mar. 2018) (Dkt. No. 193)	\$605 - \$895	\$960 - \$1130
Skadden, Arps, Slate, Meagher & Flom LLP	In re Indymac Bancorp, Inc., Debtor, No. 08-bk-21752-BB	(Bankr. C.D. Cal.) (Feb. 2018) (Dkt. No. 1041)	\$420 - \$710	\$895 - \$1350

*Listed in order of filing date.

Defense Firm Name	Case Name	Citation	Non-Partner Attorneys' Fee Range	Partners' Fee Range
Kirkland & Ellis, LLP	In re rue21, inc., <i>et al.</i> , Debtors, No. 17-22045-GLT	(D. Pa.) (Nov. 2017) (Dkt. No. 1308-6)	\$555 - \$965	\$965 - \$1625
	In re Caesars Entertainment Operating Company, Inc., <i>et al.</i> , Debtors, No. 15-01145 (ABG)	(Bankr. N.D. Ill.) (Nov. 2017) (Dkt. No. 7620-6)	\$480 - \$1395	\$645 - \$1625
Dechert LLP	In re Thru, Inc., Debtor, No. 17-31034	(N.D. Tex.) (Aug. 2017) (Dkt. No. 148)	\$725 - \$785	\$1,095 (Only one rate listed)
Boies, Schiller & Flexner LLP	In re Molycorp, Inc., <i>et al.</i> , Debtors, No. 15-11357 (CSS)	(D. Del.) (Sept. 2016) (Dkt. No. 1994)	\$490 - \$1,180	\$780 - \$1,500
Gibson, Dunn & Crutcher LLP	In re LightSquared Inc., <i>et al.</i> , Debtors, No. 12-12080 (SCC)	(S.D.N.Y.) (Jan. 2016) (Dkt. No. 2444)	\$395 - \$765 (fees voluntarily reduced by roughly 8%)	\$765 - \$1,800 (fees voluntarily reduced by roughly 8%)
	In re Newland International Properties, Corp., Debtor, No. 13-11396	(S.D.N.Y.) (July 2013) (Dkt. No. 146)	\$510 - \$795	\$960 - \$1,170
Proskauer Rose LLP	In re IPC International Corporation, <i>et al.</i> , Debtors, No. 13-12050 (MF)	(Bankr. D. Del.) (Aug. 2013) (Dkt. No. 57)	\$200 - \$1,150	\$600 - \$1,250

EXHIBIT “G”

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELISSA M. ROBERTS, Individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

v.

BLOOM ENERGY CORPORATION, KR
SRIDHAR, RANDY FURR, L. JOHN DOERR,
SCOTT SANDELL, EDDY ZERVIGON, PETER
TETI, MARY K. BUSH, KELLY A. AYOTTE, J.P.
MORGAN SECURITIES LLC, MORGAN STANLEY
& CO. LLC, CREDIT SUISSE SECURITIES (USA)
LLC, KEYBANC CAPITAL MARKETS INC.,
MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED, ROBERT W. BAIRD & CO.,
INCORPORATED, COWEN AND COMPANY, LLC,
HSBC SECURITIES (USA) INC., OPPENHEIMER
& CO. INC., RAYMOND JAMES & ASSOCIATES,
INC., and PRICEWATERHOUSECOOPERS LLP,

Defendants.

Case No. 4:19-cv-02935-HSG

Honorable Haywood S. Gilliam, Jr.

**NOTICE OF (I) PENDENCY OF CLASS ACTION, CERTIFICATION OF
SETTLEMENT CLASS, AND PROPOSED SETTLEMENT; (II) SETTLEMENT
FAIRNESS HEARING; AND (III) MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

NOTICE OF PENDENCY OF CLASS ACTION: Please be advised that your rights may be affected by the above-captioned securities class action (the “Action”) pending in the United States District Court for the Northern District of California (the “Court”), if you purchased or otherwise acquired common shares of Bloom Energy Corporation (“Bloom”) from July 25, 2018 to March 31, 2020, inclusive.

NOTICE OF SETTLEMENT: Please also be advised that Plaintiff James Everett Hunt (“Lead Plaintiff”) and additional plaintiffs Juan Rodriguez, Kurt Voutaz, Joel White, Andrew Austin, and Ryan Fishman (together with Lead Plaintiff, “Plaintiffs”), on behalf of themselves and the Settlement Class (as defined in ¶ 19 below), have reached a proposed settlement of the Action for \$3,000,000 in cash that, if approved, will resolve all claims in the Action (the “Settlement”).

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of cash from the Settlement. If you are a member of the Settlement Class, your legal rights will be affected whether or not you act.

If you have any questions about this Notice, the proposed Settlement, or your eligibility to participate in the Settlement, please DO NOT contact Bloom, any other Defendants in the Action, or their counsel. All questions should be directed to Lead Counsel or the Claims Administrator (see ¶ 80 below).

1. **Description of the Action and the Settlement Class:** This Notice relates to a proposed Settlement of claims in a pending securities class action brought by investors alleging, among other things, that Defendants Bloom Energy Corporation (“Bloom”), KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, Kelly A. Ayotte¹, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and

¹ KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, and Kelly A. Ayotte are referred to collectively as the “Individual Defendants.”

Robert W. Baird & Co. Incorporated² (collectively, the “Settling Defendants”) violated the federal securities laws by making false and misleading statements and/or concealing material adverse facts. The proposed Settlement resolves the claims in the Action concerning whether the Settling Defendants violated the federal securities laws by making materially false and misleading statements relating to Bloom Energy Servers’ construction delays, efficiency, as well as the dismissed claims regarding certain accounting statements. The proposed Settlement also bars any and all claims for contribution or indemnity against any of the Releasees arising out of, relating to or concerning any acts, facts, statements, or omissions that were or could have been alleged in the Action. A more detailed description of the Action is set forth in ¶¶ 11-18 below. The proposed Settlement, if approved by the Court, will settle claims of the Settlement Class, as defined in ¶ 19 below.

2. **Statement of the Settlement Class’s Recovery:** Subject to Court approval, Plaintiffs, on behalf of themselves and the Settlement Class, have agreed to settle the Action in exchange for a settlement payment of \$3,000,000 in cash (the “Settlement Amount”) caused by Bloom to be deposited into an escrow account. The Net Settlement Fund (*i.e.*, the Settlement Amount plus any and all interest earned thereon (the “Settlement Fund”) less (i) taxes on the income thereof and any Tax Expenses; (ii) Notice and Administration Expenses; (iii) Attorneys’ Fees and Expenses authorized by the Court; (iv) any Award to Plaintiffs authorized by the Court; and (v) any other fees and expenses authorized by the Court) will be distributed in accordance with a plan of allocation that is approved by the Court, which will determine how the Net Settlement Fund shall be allocated among members of the Settlement Class. The proposed plan of allocation (the “Plan of Allocation”) is set forth on pages 9-13 below.

3. **Estimate of Average Amount of Recovery Per Share:** Based on Plaintiffs’ damages expert’s estimates of the number of common shares of Bloom common stock purchased or otherwise acquired during the Settlement Class Period that may have been affected by the conduct at issue in the Action and assuming that all Settlement Class Members elect to participate in the Settlement, the estimated average recovery (before the deduction of any Court-approved fees, expenses and costs as described herein) per eligible share is \$0.04. Settlement Class Members should note, however, that the foregoing average recovery per share is only an estimate. Some Settlement Class Members may recover more or less than this estimated amount depending on, among other factors, the number of shares they purchased or otherwise acquired, when and at what prices they purchased/acquired or sold their Bloom common shares, and the total number of valid Claim Forms submitted. Distributions to Settlement Class Members will be made based on the Plan of Allocation set forth herein (*see* pages 9-13 below) or such other plan of allocation as may be ordered by the Court.

4. **Average Amount of Damages Per Share:** The Settling Parties do not agree on the average amount of damages per share that would be recoverable if Plaintiffs were to prevail in the Action. Among other things, Settling Defendants deny that they violated the federal securities laws and that any damages were suffered by any members of the Settlement Class.

5. **Attorneys’ Fees and Expenses Sought:** Plaintiffs’ Counsel, which have been prosecuting the Action on a wholly contingent basis since its inception in 2019, have not received any payment of attorneys’ fees for their representation of the Settlement Class and have advanced the funds to pay expenses necessarily incurred to prosecute this Action. Court-appointed Lead Counsel, Levi & Korsinsky, LLP, will apply to the Court for an award of attorneys’ fees in an amount not to exceed 33% of the Settlement Fund. In addition, Lead Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution and resolution of the claims against the Defendants, in an amount not to exceed \$85,000 and an “award of reasonable costs and expenses” to Plaintiffs not to exceed \$5,000 individually or \$12,500 total. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses. Estimates of the average cost per affected Bloom common share, if the Court approves Lead Counsel’s fee and expense application, is \$0.01 per eligible security.

6. **Identification of Attorneys’ Representatives:** Plaintiffs and the Settlement Class are represented by Nicholas Porritt, Esq. of Levi & Korsinsky, LLP, 1101 Vermont Ave. NW Suite 700, Washington, D.C. 20005, (202) 524-4290, nporritt@zlk.com.

7. **Reasons for the Settlement:** Plaintiffs’ principal reason for entering into the Settlement is the substantial immediate cash benefit for the Settlement Class without the risk or the delays inherent in further litigation. Moreover, the substantial cash benefit provided under the Settlement must be considered against the significant risk that a smaller recovery – or indeed no recovery at all – might be achieved after contested motions, a trial of the Action and the likely appeals that would follow a trial. This process could be expected to last several years. Settling Defendants, who have denied and continue to deny all allegations of wrongdoing, fault, liability, or damages whatsoever asserted

² J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co. Incorporated are referred to collectively as the “Underwriter Defendants.”

by Plaintiffs, are entering into the Settlement solely to eliminate the uncertainty, burden and expense of further protracted litigation. Settling Defendants have also denied, *inter alia*, the allegations that Plaintiffs or the Settlement Class have suffered damages or that Plaintiffs or the Settlement Class were harmed by the conduct alleged in the Action. Settling Defendants continue to believe the claims asserted against them in the Action are without merit. Defendants have not conceded or admitted any wrongdoing or liability, are not doing so by entering into this Settlement, and disclaim any and all wrongdoing and liability whatsoever.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
SUBMIT A CLAIM FORM ONLINE OR POSTMARKED NO LATER THAN MARCH 29, 2024.	This is the only way to be eligible to receive a payment from the Settlement Fund. If you are a Settlement Class Member and you remain in the Settlement Class, you will be bound by the Settlement as approved by the Court and you will give up any Released Claims (defined in ¶ 28 below) that you have against Settling Defendants and the other Released Defendants' Persons (defined in ¶ 29 below), so it is in your interest to submit a Claim Form.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN MARCH 18, 2024.	If you exclude yourself from the Settlement Class, you will not be eligible to receive any payment from the Settlement Fund. This is the only option that allows you ever to be part of any other lawsuit against any of the Settling Defendants or the other Released Defendants' Persons concerning the Released Claims.
OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN MARCH 18, 2024.	If you do not like the proposed Settlement, the proposed Plan of Allocation, the request for attorneys' fees and reimbursement of Litigation Expenses, or the proposed award to Plaintiffs you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation or the fee and expense request unless you are a Settlement Class Member and do not exclude yourself from the Settlement Class.
GO TO A HEARING ON MAY 2, 2024 AT 2:00 P.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN MARCH 18, 2024.	Filing a written objection and notice of intention to appear by March 18, 2024 allows you to speak in Court, at the discretion of the Court, about the fairness of the proposed Settlement, the Plan of Allocation, the request for attorneys' fees and reimbursement of Litigation Expenses, and/or award to Plaintiffs. If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection.
DO NOTHING.	If you are a member of the Settlement Class and you do not submit a valid Claim Form, you will not be eligible to receive any payment from the Settlement Fund. You will, however, remain a member of the Settlement Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court in the Action.

WHAT THIS NOTICE CONTAINS

Why Did I Get The Postcard Notice?4
 What Is This Case About?4
 How Do I Know If I Am Affected By The Settlement? Who Is Included
 In The Settlement Class?..... 5
 What Are Plaintiffs’ Reasons For The Settlement?6
 What Might Happen If There Were No Settlement?.....6
 How Are Settlement Class Members Affected By The Action And
 The Settlement?7
 How Do I Participate In The Settlement? What Do I Need To Do?.....8
 How Much Will My Payment Be?.....8
 What Payment Are The Attorneys For The Settlement Class Seeking?
 How Will The Lawyers Be Paid? 13
 What If I Do Not Want To Be A Member Of The Settlement Class?
 How Do I Exclude Myself? 13
 When And Where Will The Court Decide Whether To Approve The Settlement?
 Do I Have To Come To The Hearing? May I Speak At The Hearing If I
 Don’t Like The Settlement?..... 14
 What If I Bought Shares On Someone Else’s Behalf?..... 15
 Can I See The Court File? Whom Should I Contact If I Have Questions?..... 15

WHY DID I GET THE POSTCARD NOTICE?

8. The Court directed that the Postcard Notice be mailed to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or otherwise acquired Bloom common shares during the relevant period. The Court also directed that this Notice be posted online at www.BloomEnergySettlement.com and mailed to you upon request to the Claims Administrator. The Court has directed us to disseminate these notices because, as a potential Settlement Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights. If the Court approves the Settlement, and the Plan of Allocation (or some other plan of allocation), the claims administrator selected by Plaintiffs and approved by the Court will make payments pursuant to the Settlement after any objections and appeals are resolved.

9. The purpose of this Notice is to inform you of the existence of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Settlement Class if you wish to do so. It is also being sent to inform you of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation and the motion by Lead Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses (the “Settlement Hearing”). See paragraph 70 below for details about the Settlement Hearing, including the date and location of the hearing.

10. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and a plan of allocation, then payments to Authorized Claimants will be made after any appeals are resolved and after the completion of all claims processing. Please be patient, as this process can take some time to complete.

WHAT IS THIS CASE ABOUT?

11. On May 28, 2019, the initial complaint in this Action was filed, captioned *Roberts v. Bloom Energy Corp., et al.*, Case No. 3:19-cv-02935 (N.D. Cal.), alleging federal securities law violations. On September 3, 2019, the Court appointed James Everett Hunt as lead plaintiff and approved Plaintiff’s selection of Levi & Korsinsky, LLP as Lead Counsel for the proposed class.

12. On April 21, 2020, Lead Plaintiff Hunt and additional plaintiffs Juan Rodriguez, Kurt Voutaz, Scott Kline, Joel White, Andrew Austin, and Ryan Fishman (collectively, “Plaintiffs”) filed the Second Amended Complaint against Bloom, KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Colin Powell, Peter Teti, Mary K. Bush, Kelly A. Ayotte, the Underwriter Defendants, and adding PricewaterhouseCoopers LLP (“PwC”) as an additional defendant. In pertinent part, the Plaintiffs alleged that Defendants violated the federal securities laws by making materially false and misleading statements relating to construction delays, Bloom’s Energy Servers’ efficiency, and accounting. Plaintiffs filed the operative “Corrected Second Amended Complaint” on June 30, 2023 solely to correct the class period.

13. On July 1, 2020, three motions to dismiss Plaintiffs’ Second Amended Complaint were filed by Bloom, the Individual Defendants, General Powell, the Underwriter Defendants, and PwC. On September 29, 2021, the Court entered an order granting in part and denying in part the Defendants’ motions to dismiss. Following the order, the claims that remained were those arising out of allegedly false or misleading statements in Bloom’s IPO registration statement regarding construction delays and beginning of life efficiency for Bloom’s Energy Servers. Plaintiffs sought to appeal several aspects of the Court’s motion to dismiss order and the Court denied Plaintiffs’ motion for entry of judgment and motion for interlocutory appeal. Plaintiffs also voluntarily dismissed General Powell after he passed away on October 18, 2021.

14. Beginning in August of 2022, while fact discovery was ongoing, the Settling Parties began preliminary discussions regarding settlement. On December 20, 2022, after exchanging mediation briefs detailing their respective theories of liability and damages, the Settling Parties attended a full-day virtual mediation with Ms. Michelle Yoshida at Phillips ADR Enterprises. The Settling Parties did not reach a settlement during the mediation but continued to engage in post-mediation discussions.

15. Plaintiffs and Settling Defendants continued to negotiate in good faith and came to an agreement in principle on January 6, 2023 to settle and release all claims asserted against Settling Defendants in the Action in return for a cash payment of \$3,000,000 for the benefit of the Settlement Class, subject to certain terms and conditions and the execution of a customary “long form” stipulation and agreement of settlement and related papers.

16. Based on the investigation and mediation of the case and Plaintiffs’ direct oversight of the prosecution of this matter and with the advice of their counsel, each of the Plaintiffs has agreed to settle and release the claims raised in the Action pursuant to the terms and provisions of the Settlement, after considering, among other things, (a) the substantial financial benefit that Plaintiffs and the other members of the Settlement Class will receive under the proposed Settlement; and (b) the significant risks and costs of continued litigation and trial.

17. Settling Defendants are entering into the Settlement solely to eliminate the uncertainty, burden and expense of further protracted litigation. Each of the Settling Defendants has denied and continues to deny each, any, and all allegations of wrongdoing, fault, liability, or damage whatsoever asserted in the Action, and the Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Settling Defendants, or any other of the Released Defendants’ Persons (defined in ¶ 29 below), with respect to any claim or allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Settling Defendants have, or could have, asserted. Similarly, the Settlement shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any Plaintiff of any infirmity in any of the claims asserted in the Action, or an admission or concession that any of the Settling Defendants’ defenses to liability had any merit. The Settlement resolves all of the claims in the Action against the Settling Defendants, as well as certain other claims or potential claims, whether known or unknown.

18. On October 31, 2023, the Court preliminarily approved the Settlement, authorized the Postcard Notice to be mailed to potential Settlement Class Members and this Notice to be posted online and mailed to potential Settlement Class Members upon request, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

**HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?
WHO IS INCLUDED IN THE SETTLEMENT CLASS?**

19. If you are a member of the Settlement Class, you are subject to the Settlement, unless you timely request to be excluded. The Settlement Class consists of:

all Persons and entities that purchased or otherwise acquired Bloom Energy Corporation’s publicly traded common stock either (i) pursuant and/or traceable to the Registration Statement for Bloom’s IPO or (ii) on the open market between July 25, 2018 and March 31, 2020, and were damaged thereby. Excluded from the Settlement Class are:

(i) Settling Defendants' immediate family members; (ii) the officers and directors of Bloom and the Underwriter Defendants, at all relevant times; (iii) the affiliates and subsidiaries of Bloom, at all relevant times; (iv) Bloom's affiliates and employee retirement and/or benefit plan(s) and their participants or beneficiaries to the extent they purchased or acquired Bloom common stock pursuant or traceable to the Registration Statement through any such plan(s); (v) any entity in which Settling Defendants have a controlling interest; and (vi) the legal representatives, heirs, successors, or assigns of any such excluded person or entity. Provided, however, that any "Investment Vehicle" shall not be excluded from the Settlement Class. "Investment Vehicle" means any investment company, separately managed account, collective investment trust, or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, fund of funds, hedge funds, and retirement accounts and employee benefit plans, in which any Settling Defendant has or may have a direct or indirect interest, or as to which that Settling Defendant or its affiliates may act as an investment advisor or manager, but in which any Settling Defendant alone or together with its, his or her respective affiliates is not a majority owner or does not hold a majority beneficial interest. Also excluded from the Settlement Class are any persons or entities who or which exclude themselves by submitting a request for exclusion in accordance with the requirements set forth in this Notice. See "What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself," on page 13 below.

PLEASE NOTE: RECEIPT OF THE POSTCARD NOTICE DOES NOT MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT.

If you are a Settlement Class Member and you wish to be eligible to participate in the distribution of proceeds from the Settlement, you are required to submit the Claim Form that is available online at www.BloomEnergySettlement.com or which can be mailed to you upon request to the Claims Administrator, and the required supporting documentation as set forth therein, online or postmarked no later than March 29, 2024.

WHAT ARE PLAINTIFFS' REASONS FOR THE SETTLEMENT?

20. Plaintiffs and Lead Counsel believe that the claims asserted against Settling Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against the Settling Defendants through trial and appeals, as well as the very substantial risks they would face in establishing liability and damages. In order to recover damages, Plaintiffs would have to prevail at several stages – motions for summary judgment, trial, and if they prevailed on those, on the appeals that were likely to follow. Additionally, the District Court has already dismissed a substantial portion of Plaintiffs' claims, and there was no guarantee that Plaintiffs would succeed on appeal. Thus, there were very significant risks attendant to the continued prosecution of the Action.

21. In light of these risks, the amount of the Settlement and the immediacy of recovery to the Settlement Class, Plaintiffs and Lead Counsel believe that the proposed Settlement is fair, reasonable and adequate, and in the best interests of the Settlement Class. Plaintiffs and Lead Counsel believe that the Settlement provides a substantial benefit to the Settlement Class, namely \$3,000,000 in cash (less the various deductions described in this Notice), as compared to the risk that the claims in the Action would produce a smaller, or no recovery after summary judgment, trial and appeals, possibly years in the future.

22. Settling Defendants have denied and continue to deny the claims asserted against them in the Action and have denied and continue to deny having engaged in any wrongdoing or violation of law of any kind whatsoever. Settling Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission of any wrongdoing by Settling Defendants.

WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

23. If there were no Settlement and Plaintiffs failed to establish any essential legal or factual element of their claims against Settling Defendants, neither Plaintiffs nor the other Settlement Class Members would recover anything from Settling Defendants. Also, if Settling Defendants were successful in proving any of their defenses, either at summary judgment, at trial or on appeal, the Settlement Class could recover substantially less than the amount provided in the Settlement, or nothing at all.

**HOW ARE SETTLEMENT CLASS MEMBERS AFFECTED
BY THE ACTION AND THE SETTLEMENT?**

24. As a Settlement Class Member, you are represented by Plaintiffs and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, “When And Where Will The Court Decide Whether To Approve The Settlement?,” on page 14 below.

25. If you are a Settlement Class Member and do not wish to remain a Settlement Class Member, you may exclude yourself from the Settlement Class by following the instructions in the section entitled, “What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself?,” on page 13 below.

26. If you are a Settlement Class Member and you wish to object to the Settlement, the Plan of Allocation, or Lead Counsel’s application for attorneys’ fees and reimbursement of Litigation Expenses, or the award to Plaintiffs and if you do not exclude yourself from the Settlement Class, you may present your objections by following the instructions in the section entitled, “When And Where Will The Court Decide Whether To Approve The Settlement?,” on page 14 below.

27. If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you will be bound by any orders issued by the Court. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Settling Defendants and will provide that, upon the Effective Date of the Settlement, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, will have fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Claim (as defined in ¶ 28 below) against the Settling Defendants and the other Released Defendant Persons (as defined in ¶ 29 below), and shall forever be barred and enjoined from prosecuting any or all of the Released Claims against any of the Released Defendant Persons.

28. “Released Claims” means any and all claims, rights, demands, obligations, damages, actions or causes of action, or liabilities whatsoever, of every nature and description, including both known claims and Unknown Claims, that have been or could have been asserted in this action, or any other action arising under the federal securities laws, that (a) arise out of, are based upon, or relate in any way to any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to in this action, or which could have been alleged in this action, or (b) arise out of, are based upon, or relate in any way to the purchase, acquisition, sale, disposition, or holding of any Bloom securities acquired pursuant and/or traceable to the Registration Statement for Bloom’s IPO or on the open market between July 25, 2018 and March 31, 2020, provided, however, that the following are expressly excluded from the definition of Released Claims: all claims that have been or may in the future be brought against PwC. In addition, “Released Claims” does not include any claims to enforce any of the terms of the Settlement.

29. “Released Defendant Persons” means Bloom, KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, Kelly A. Ayotte, General Colin L. Powell, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co. Incorporated and their Related Persons. Notwithstanding any other term or provision to the contrary contained in this Stipulation, however, “Released Defendant Persons” does not include, and instead specifically excludes Bloom’s auditor and accountant PwC.

30. “Unknown Claims” means: (i) any claims that the Plaintiffs or any Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Persons, which if known by him, her, or it, might have affected his, her, or its decision(s) with respect to the Settlement, including, but not limited to, the decision not to object to the Settlement, provided such claim arises out of or relates to the purchase or acquisition of Bloom common stock; and (ii) any Released Defendants’ Claims that any Settling Defendant does not know or expect to exist in his, her, or its favor, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement.

31. With respect to any and all Released Claims and Released Defendants’ Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Settling Parties shall expressly waive, and each of the Settlement Class Members shall be deemed to have waived and by operation of the Judgment shall have waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law

that is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides: “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or releasing party.” The Plaintiffs acknowledge, and the Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the inclusion of “Unknown Claims” in the definitions of Released Claims and Released Defendants’ Claims was separately bargained for and a key element of the Settlement of which this release is a part.

32. The Judgment will also provide that, upon the Effective Date of the Settlement, Settling Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, will have fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants’ Claim (as defined in ¶ 33 below) against Plaintiffs and the other Released Plaintiff Persons (as defined in ¶ 34 below), and shall forever be barred and enjoined from prosecuting any or all of the Released Defendants’ Claims against any of the Released Plaintiff Persons.

33. “Released Defendants’ Claims” means all claims, demands, rights, remedies, liabilities, and causes of action of every nature and description whatsoever, including both known claims and Unknown Claims, by any of the Released Defendant Persons (or any of their successors or assigns) against any of the Plaintiffs or any of Plaintiffs’ attorneys which arise out of or relate in any way to the institution, prosecution, assertion, settlement, or resolution of this Action or the Released Claims, except for claims to enforce any of the terms of the Settlement.

34. “Released Plaintiff Persons” means (i) the Plaintiffs and all Settlement Class Members; and (ii) each of their Related Persons.

35. “Related Persons” with respect to a Person, means (a) their immediate family members and any trust that such Person is the settlor of or which is for their benefit and/or the benefit of their family; (b) their subsidiaries, parent entities, divisions, and departments, and their respective past and present officers, directors, employees, auditors, accountants, representatives, insurers, trustees, trustors, agents, attorneys, predecessors, successors, assigns, heirs, executors, and administrators, in their capacities as such. “Related Persons” does not include, and instead specifically excludes PwC in its capacity as Bloom’s auditor and accountant.

HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?

To be eligible for a payment from the proceeds of the Settlement, you must be a member of the Settlement Class and you must timely complete and return the Claim Form with adequate supporting documentation online **or postmarked no later than March 29, 2024**. A Claim Form is available on the website maintained by the Claims Administrator for the Settlement, www.BloomEnergySettlement.com, or you may request that a Claim Form be mailed to you by calling the Claims Administrator toll free at 1-844- 334-1078. Please retain all records of your ownership of and transactions in Bloom common shares, as they may be needed to document your Claim. If you request exclusion from the Settlement Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

HOW MUCH WILL MY PAYMENT BE?

36. At this time, it is not possible to make any determination as to how much any individual Settlement Class Member may receive from the Settlement.

37. Pursuant to the Settlement, Bloom has agreed to pay or caused to be paid three million dollars (\$3,000,000) in cash. The Settlement Amount will be deposited into an escrow account. The Settlement Amount plus any interest earned thereon is referred to as the “Settlement Fund.” If the Settlement is approved by the Court and the Effective Date occurs, the “Net Settlement Fund” (that is, the Settlement Fund less (i) taxes on the income thereof and any Tax Expenses; (ii) Notice and Administration Expenses; (iii) Attorneys’ Fees and Expenses authorized by the Court; (iv) any Award to Plaintiffs authorized by the Court; and (v) any other fees and expenses authorized by the Court) will be distributed to Settlement Class Members who submit valid Claim Forms, in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve.

38. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, has expired.

39. Neither Settling Defendants nor any other person or entity that paid any portion of the Settlement Amount on their behalf are entitled to get back any portion of the Settlement Fund once the Court's order or judgment approving the Settlement becomes Final. Settling Defendants shall not have any liability, obligation or responsibility for the administration of the Settlement, the disbursement of the Net Settlement Fund or the plan of allocation.

40. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

41. Unless the Court otherwise orders, any Settlement Class Member who fails to submit a Claim Form online or postmarked on or before March 29, 2024, shall be fully and forever barred from receiving payments pursuant to the Settlement but will in all other respects remain a Settlement Class Member and be subject to the provisions of the Stipulation, including the terms of any Judgment entered and the releases given. This means that each Settlement Class Member releases the Released Claims (as defined in ¶ 28 above) against the Released Defendant Persons (as defined in ¶ 29 above) and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Claims against any of the Released Defendant Persons whether or not such Settlement Class Member submits a Claim Form.

42. Participants in and beneficiaries of a plan covered by ERISA ("ERISA Plan") should NOT include any information relating to their transactions in Bloom common shares held through the ERISA Plan in any Claim Form that they may submit in this Action. They should include ONLY those shares or notes that they purchased or acquired outside of the ERISA Plan. Claims based on any ERISA Plan's purchases or acquisitions of Bloom common shares during the Class Period may be made by the plan's trustees. To the extent any of the Settling Defendants or any of the other persons or entities excluded from the Settlement Class are participants in the ERISA Plan, such persons or entities shall not receive, either directly or indirectly, any portion of the recovery that may be obtained from the Settlement by the ERISA Plan.

43. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Settlement Class Member.

44. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim Form.

45. Only Settlement Class Members, *i.e.*, persons and entities who purchased or otherwise acquired Bloom common shares during the Class Period will be eligible to share in the distribution of the Net Settlement Fund. Persons and entities that are excluded from the Settlement Class by definition or that exclude themselves from the Settlement Class pursuant to request will not be eligible to receive a distribution from the Net Settlement Fund and should not submit Claim Forms.

PROPOSED PLAN OF ALLOCATION

46. As discussed above, the Settlement provides \$3,000,000 in cash for the benefit of the Class. If the Settlement is approved by the Court, the Net Settlement Fund will be distributed to eligible Authorized Claimants – *i.e.*, members of the Class who timely submit valid Claim Forms that are accepted for payment by the Court – in accordance with this proposed Plan of Allocation ("Plan of Allocation" or "Plan") or such other plan of allocation as the Court may approve. Class Members who do not timely submit valid Claim Forms will not share in the Net Settlement Fund, but will otherwise be bound by the Settlement. The Court may approve this proposed Plan of Allocation, or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the settlement website, www.BloomEnergySettlement.com.

47. The objective of the Plan of Allocation is to distribute the Settlement proceeds equitably among those Class Members who suffered economic losses as a proximate result of the alleged wrongdoing. The Plan of Allocation is not a formal damage analysis, and the calculations made in accordance with the Plan of Allocation are not intended to be estimates of, or indicative of, the amounts that Class Members might have been able to recover after a trial. Nor are the calculations in accordance with the Plan of Allocation intended to be estimates of the amounts that will be paid to Authorized Claimants under the Settlement. The computations under the Plan of Allocation are only a method to weigh, in a fair and equitable manner, the claims of Authorized Claimants against one another for the purpose of making *pro rata* allocations of the Net Settlement Fund.

48. The Plan of Allocation was developed in consultation with Plaintiffs' damages expert. In developing the Plan of Allocation, Plaintiffs' damages expert calculated the estimated amount of alleged artificial inflation in the per share prices of Bloom common stock that was allegedly caused by Defendants' alleged materially false and misleading statements and omissions. In calculating the estimated artificial inflation allegedly caused by those misrepresentations

and omissions, Plaintiffs' damages expert considered the price change in Bloom common stock in reaction to the public disclosure that allegedly corrected the respective alleged misrepresentations and omissions, adjusting the price change for factors that were attributable to market forces, and for nonfraud related Company specific information.

49. In order to have recoverable damages under the federal securities laws, disclosure of the alleged misrepresentation and/or omission must be the cause of the decline in the price of the security. In this Action, Plaintiffs allege that corrective information allegedly impacting the price of Bloom common stock (referred to as a "corrective disclosure") affected the market on November 6, 2018; September 17, 2019; February 13, 2020; and April 1, 2020. In order to have a "Recognized Loss Amount" under the Plan of Allocation, shares of Bloom Energy publicly traded common stock must have been purchased or otherwise acquired during the Class Period and held through the issuance of the corrective disclosure.³

CALCULATION OF RECOGNIZED LOSS AMOUNTS

50. Based on the formulas stated below, a "Recognized Loss Amount" will be calculated for each purchase or acquisition of Bloom Energy publicly traded common stock during the Class Period that is listed on the Claim Form and for which adequate documentation is provided. If a Recognized Loss Amount calculates to a negative number or zero under the formula below, that Recognized Loss Amount will be zero.

51. For each share of Bloom Energy publicly traded common stock purchased or otherwise acquired from July 25, 2018 through and including the close of trading on March 31, 2020, and:

(a) Sold prior to November 6, 2018, the Recognized Loss Amount will be \$0.00;

(b) Sold from November 6, 2018, through and including the close of trading on March 31, 2020, the Recognized Loss Amount will be ***the least of***: (i) the amount of alleged artificial inflation per share on the date of purchase/acquisition as stated in Table A minus the amount of alleged artificial inflation per share on the date of sale as stated in Table A; or (ii) the purchase/acquisition price minus the sale price.; and

(c) Sold from April 1, 2020, through but excluding the close of trading on June 29, 2020, the Recognized Loss Amount will be ***the least of***: (i) the amount of alleged artificial inflation per share on the date of purchase/acquisition as stated in Table A; (ii) the purchase/acquisition price minus the sale price; or (iii) the purchase/acquisition price minus the "PSLRA Average Trading Price" indicated in Table B on the date of sale.;⁴ and

(d) Held as of the close of trading on June 29, 2020, the Recognized Loss Amount will be ***the lesser of***: (i) the amount of alleged artificial inflation per share on the date of purchase/acquisition as stated in Table A; or (ii) the purchase/acquisition price minus \$7.76 per share.

³ Any transactions in Bloom common stock executed outside of regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next regular trading session.

⁴ Under Section 21D(e)(1) of the Exchange Act, "in any private action arising under this Act in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." Consistent with the requirements of the statute, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing prices of Bloom Energy common stock during the 90-day look-back period. The mean (average) closing price for Bloom Energy common stock at the end of this 90-day look-back period was \$7.76 per share.

Table A: Alleged Artificial Inflation in Bloom Energy Common Stock

Date Range	Alleged Artificial Inflation Per Share
July 25, 2018 through November 5, 2018	\$7.93
November 6, 2018 through September 16, 2019	\$2.14
September 17, 2019 through February 12, 2020	\$1.24
February 13, 2020 through March 31, 2020	\$0.41
April 1, 2020 and thereafter	\$0.00

TABLE B
Bloom Energy Closing Prices and PSLRA Average Trading Prices
April 1, 2020 – June 29, 2020

Date	Closing Price	PSLRA Average Trading Price	Date	Closing Price	PSLRA Average Trading Price
4/1/2020	\$4.46	\$4.46	5/15/2020	\$8.03	\$7.06
4/2/2020	\$4.96	\$4.71	5/18/2020	\$8.34	\$7.10
4/3/2020	\$4.79	\$4.74	5/19/2020	\$8.27	\$7.14
4/6/2020	\$5.24	\$4.86	5/20/2020	\$8.00	\$7.16
4/7/2020	\$5.09	\$4.91	5/21/2020	\$7.93	\$7.18
4/8/2020	\$5.86	\$5.07	5/22/2020	\$7.92	\$7.20
4/9/2020	\$6.14	\$5.22	5/26/2020	\$8.15	\$7.23
4/13/2020	\$5.94	\$5.31	5/27/2020	\$8.34	\$7.26
4/14/2020	\$7.30	\$5.53	5/28/2020	\$8.07	\$7.28
4/15/2020	\$6.55	\$5.63	5/29/2020	\$8.03	\$7.29
4/16/2020	\$6.48	\$5.71	6/1/2020	\$8.40	\$7.32
4/17/2020	\$6.83	\$5.80	6/2/2020	\$7.98	\$7.34
4/20/2020	\$6.80	\$5.88	6/3/2020	\$7.77	\$7.35
4/21/2020	\$6.77	\$5.94	6/4/2020	\$8.00	\$7.36
4/22/2020	\$7.95	\$6.08	6/5/2020	\$8.14	\$7.38
4/23/2020	\$7.92	\$6.19	6/8/2020	\$8.57	\$7.40
4/24/2020	\$8.28	\$6.32	6/9/2020	\$8.40	\$7.42
4/27/2020	\$8.47	\$6.44	6/10/2020	\$10.27	\$7.48
4/28/2020	\$7.72	\$6.50	6/11/2020	\$8.69	\$7.51
4/29/2020	\$7.98	\$6.58	6/12/2020	\$8.79	\$7.53
4/30/2020	\$7.67	\$6.63	6/15/2020	\$9.05	\$7.56
5/1/2020	\$7.35	\$6.66	6/16/2020	\$9.11	\$7.59
5/4/2020	\$7.21	\$6.69	6/17/2020	\$8.81	\$7.61
5/5/2020	\$7.34	\$6.71	6/18/2020	\$9.09	\$7.64
5/6/2020	\$7.88	\$6.76	6/19/2020	\$9.43	\$7.67
5/7/2020	\$7.85	\$6.80	6/22/2020	\$9.07	\$7.70
5/8/2020	\$8.30	\$6.86	6/23/2020	\$9.02	\$7.72
5/11/2020	\$8.39	\$6.91	6/24/2020	\$9.00	\$7.74
5/12/2020	\$8.58	\$6.97	6/25/2020	\$8.46	\$7.75
5/13/2020	\$7.85	\$7.00	6/26/2020	\$7.78	\$7.75
5/14/2020	\$8.03	\$7.03	6/29/2020	\$8.22	\$7.76

ADDITIONAL PROVISIONS

52. Given the costs of distribution, the Net Settlement Fund will be allocated among all Authorized Claimants whose Distribution Amount (defined in ¶ 56 below) is \$10.00 or greater.

53. If a claimant has more than one purchase or sale of Bloom publicly traded common stock, purchases and sales will be matched on a First In, First Out (“FIFO”) basis. Class Period sales will be matched first against any holdings at the beginning of the Class Period, and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Class Period.

54. A claimant’s “Recognized Claim” under the Plan of Allocation will be the sum of his, her, or its Recognized Loss Amounts.

55. The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which will be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. If any Authorized Claimant’s Distribution Amount calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

56. Purchases, acquisitions, and sales of Bloom Energy publicly traded common stock will be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance, or operation of law of Bloom Energy common stock during the Class Period will not be deemed a purchase, acquisition, or sale of Bloom Energy common stock for the calculation of an Authorized Claimant’s Recognized Loss Amount, nor will the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of Bloom common stock unless: (i) the donor or decedent purchased or otherwise acquired the shares during the Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to those shares; and (iii) it is specifically so provided in the instrument of gift or assignment.

57. “Short sales” of Bloom Energy common stock are not entitled to a recovery under the Plan of Allocation. The date of covering a “short sale” is deemed to be the date of purchase or acquisition of the Bloom common stock. The date of a “short sale” is deemed to be the date of sale of the Bloom common stock. In accordance with the Plan of Allocation, however, the Recognized Loss Amount on “short sales” and the purchases covering “short sales” is zero.

58. Option contracts are not securities eligible to participate in the Settlement. With respect to shares of Bloom Energy common stock purchased or sold through the exercise of an option, the purchase/sale date of the Bloom Energy common stock is the exercise date of the option and the purchase/sale price of the Bloom Energy common stock is the exercise price of the option.

59. If a claimant had a market gain with respect to his, her, or its overall transactions in Bloom publicly traded common stock during the Class Period, the value of the claimant’s Recognized Claim will be zero. If a claimant suffered an overall market loss with respect to his, her, or its overall transactions in Bloom common stock during the Class Period but that market loss was less than the claimant’s total Recognized Claim calculated above, then the claimant’s Recognized Claim will be limited to the amount of the actual market loss. For purposes of determining whether a claimant had a market gain with respect to his, her, or its overall transactions in Bloom common stock during the Class Period or suffered a market loss, the Claims Administrator will determine the difference between (i) the Total Purchase Amount⁵ and (ii) the sum of the Total Sales Proceeds⁶ and Holding Value.⁷ This difference will be deemed a claimant’s market gain or loss with respect to his, her, or its overall transactions in Bloom common stock during the Class Period.

60. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies remain in the fund six (6) months after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator,

⁵ The “Total Purchase Amount” is the total amount the claimant paid (excluding commissions and other charges) for Bloom common stock purchased or acquired during the Class Period.

⁶ The Claims Administrator will match any sales of Bloom Energy common stock during the Class Period first against the claimant’s opening position (the proceeds of those sales will not be considered for purposes of calculating market gains or losses). The total amount received (excluding commissions and other charges) for the remaining sales of Bloom Energy common stock sold during the Class Period will be the “Total Sales Proceeds”.

⁷ The Claims Administrator will ascribe a value of \$7.76 per share for Bloom Energy common stock purchased or acquired during the Class Period and still held as of the close of trading on June 29, 2020 (the “Holding Value”).

determine that it is cost-effective to do so, the Claims Administrator will conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determine that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance shall be contributed to non-sectarian, not-for-profit organization(s), to be recommended by Lead Counsel and approved by the Court.

61. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Plaintiffs' Counsel, Plaintiffs' damages expert, Settling Defendants, Settling Defendants' Counsel, any of the other Released Plaintiff Persons or Released Defendant Persons, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Settlement, the Plan of Allocation approved by the Court, or further orders of the Court. Plaintiffs, Settling Defendants and their respective counsel, and all other Released Defendant Persons, shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund; the Plan of Allocation; the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator; the payment or withholding of Taxes; or any losses incurred in connection therewith.

62. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Settlement Class Member or claimant.

63. Each claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim Form.

**WHAT PAYMENT ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS SEEKING?
HOW WILL THE LAWYERS BE PAID?**

64. Plaintiffs' Counsel have not received any payment for their services in pursuing claims against the Settling Defendants on behalf of the Settlement Class, nor have Plaintiffs' Counsel been reimbursed for their out-of-pocket expenses. Before final approval of the Settlement, Lead Counsel will apply to the Court for an award of attorneys' fees for all Plaintiffs' Counsel in an amount not to exceed 33% of the Settlement Fund. At the same time, Lead Counsel also intends to apply for reimbursement of Litigation Expenses in an amount not to exceed \$85,000, and an "award of reasonable costs and expenses" to Plaintiffs not to exceed \$5,000 individually or \$12,500 total. The Court will determine the amount of any award of attorneys' fees or reimbursement of Litigation Expenses as well as any reasonable costs and expenses to Plaintiffs. Such sums as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

**WHAT IF I DO NOT WANT TO BE A MEMBER OF THE SETTLEMENT CLASS?
HOW DO I EXCLUDE MYSELF?**

65. Each Settlement Class Member will be bound by all determinations and judgments in this lawsuit, whether favorable or unfavorable, unless such person or entity mails or delivers a written Request for Exclusion from the Settlement Class, addressed to Bloom Energy Settlement, EXCLUSIONS, c/o Epiq Class Action & Claims Solutions, Inc., P.O. Box 2230, Portland, OR 97208-2230. The exclusion request must be *received* no later than March 18, 2024. You will not be able to exclude yourself from the Settlement Class after that date. Each Request for Exclusion must: (a) state the name, address and telephone number of the person or entity requesting exclusion, and in the case of entities the name and telephone number of the appropriate contact person; (b) state that such person or entity "requests exclusion from the Settlement Class in *Elissa M. Roberts v. Bloom Energy Corp., et al.*, Case No. 4:19-cv-02935-HSG"; (c) state the number of Bloom common shares that the person or entity requesting exclusion purchased/acquired during the Class Period; and (d) be signed by the person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court.

66. If you do not want to be part of the Settlement Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration, or other proceeding relating to any Released Claim against any of the Released Defendant Persons.

67. If you ask to be excluded from the Settlement Class, you will not be eligible to receive any payment out of the Net Settlement Fund.

68. Bloom has the right to terminate the Settlement if valid requests for exclusion are received from persons and entities entitled to be Settlement Class Members in an amount that exceeds an amount agreed to by Plaintiffs and Bloom.

**WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?
DO I HAVE TO COME TO THE HEARING?
MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?**

69. **Settlement Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Settlement Class Member does not attend the hearing. You can participate in the Settlement without attending the Settlement Hearing.**

70. The Settlement Hearing will be held on May 2, 2024, at 2:00 p.m., before the Honorable Haywood S. Gilliam, Jr. at the United States District Court for the Northern District of California, United States Courthouse, Courtroom 2, 4th Floor, 1301 Clay Street, Oakland, CA 94612 or via Zoom. The Court reserves the right to approve the Settlement, the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, awards to Plaintiffs and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the Settlement Class Members. The Court reserves the right to hold the Settlement Hearing telephonically or by other virtual means. **Please check the settlement website or the Court's Public Access to Court Electronic Records (PACER) site to confirm that the date has not been changed.**

71. Any Settlement Class Member who or which does not request exclusion may object to the Settlement, the proposed Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, or the award to Plaintiffs. Lead Counsel's motions for i) Final Approval of the Settlement; ii) Attorney's Fees and Reimbursement of Expenses; and iii) Awards to Plaintiffs are due on February 1, 2024. Motions and supporting materials will be posted to www.BloomEnergySettlement.com once filed. Objections must be in writing. You must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the Northern District of California at the address set forth below on or before March 18, 2024. You must also serve the papers on Lead Counsel and on Settling Defendants' Counsel at the addresses set forth below so that the papers are *received on or before* **March 18, 2024**.

Clerk's Office

United States District Court
Northern District of California
Clerk of the Court
United States Courthouse 1301
Clay Street
Oakland, CA 94612

Lead Counsel

Levi & Korsinsky, LLP
Nicholas Porritt, Esq.
1101 Vermont Avenue, NW Suite 700
Washington, DC 20005

Settling Defendants' Counsel

Sidley Austin LLP
Sara B. Brody 555 California Street
Suite 2000
San Francisco, CA 94104

Morgan, Lewis & Bockius LLP
Charlene S. Shimada One Market,
Spear Street Tower
San Francisco, CA 94105

72. Any objection: (a) must state the name, address and telephone number of the person or entity objecting and must be signed by the objector; (b) must contain a statement of the Settlement Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Settlement Class Member wishes to bring to the Court's attention; and (c) must include documents sufficient to prove membership in the Settlement Class, including the number of Bloom common shares that the objecting Settlement Class Member purchased/acquired during the Class Period. You may not object to the Settlement, the Plan of Allocation or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses or Plaintiffs' award if you exclude yourself from the Settlement Class or if you are not a member of the Settlement Class.

73. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

74. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses or Plaintiffs' award, and if you timely file and serve a written objection as described above, you must also file a notice of appearance

with the Clerk's Office and serve it on Lead Counsel and Settling Defendants' Counsel at the addresses set forth above so that it is **received on or before March 18, 2024**. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

75. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Lead Counsel and Settling Defendants' Counsel at the addresses set forth in ¶ 72 above so that the notice is **received on or before March 18, 2024**.

76. The Settlement Hearing may be adjourned by the Court without further written notice to the Settlement Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel.

77. Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, or the award to Plaintiffs. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?

78. If you purchased or otherwise acquired any common shares of Bloom during the Class Period for the beneficial interest of persons or organizations other than yourself, you must either: (a) within seven (7) calendar days of receipt of the Postcard Notice, request from the Claims Administrator sufficient copies of the Postcard Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Postcard Notices forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of the Postcard Notice, provide a list of the names and addresses of all such beneficial owners to Bloom Energy Settlement, c/o Epiq Class Action & Claims Solutions, Inc., P.O. Box 2230, Portland, OR 97208-2230. If you choose the second option, the Claims Administrator will send a copy of the Postcard Notice to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, up to a maximum of \$0.04 per Postcard Notice actually mailed, plus postage at the pre-sort rate used by the Claims Administrator; \$0.03 per link to the Notice and Claim Form emailed; or \$0.04 per name, address, and email address provided to the Claims Administrator, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Any dispute concerning the reasonableness of reimbursement costs shall be resolved by the Court. Copies of this Notice and the Claim Form may be obtained from the website maintained by the Claims Administrator, www.BloomEnergySettlement.com, or by calling the Claims Administrator toll-free at 1-844-334-1078.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

79. This Notice contains only a summary of the terms of the proposed Settlement. For the precise terms and conditions of the settlement, please see the Stipulation of Settlement available at www.BloomEnergySettlement.com, by contacting Lead Counsel, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. All inquiries concerning this Notice and the Claim Form should be directed to the Claims Administrator or Lead Counsel at:

Bloom Energy Settlement
c/o Epiq Class Action & Claims Solutions, Inc.
P.O. Box 2230
Portland, OR 97208-2230
1-844-334-1078
www.BloomEnergySettlement.com

and/or

Nicholas Porritt, Esq.
LEVI & KORSINSKY, LLP
1101 Vermont Avenue, NW Suite 700
Washington, DC 20005
Telephone: (202) 524-4290
Email: nporritt@zlk.com

DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT, SETTling DEFENDANTS OR THEIR COUNSEL REGARDING THIS NOTICE.

Dated: November 30, 2023

By Order of the Court
United States District Court
Northern District of California

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JAMES EVERETT HUNT, et al.,
Plaintiffs,
v.
BLOOM ENERGY CORPORATION, et al.,
Defendants.

Case No. 19-cv-02935-HSG

**DECLARATION OF SUSANNA
WEBB REGARDING NOTICE
ADMINISTRATION**

I, Susanna Webb, hereby declare and state as follows:

1. I am a Project Manager employed by Epiq Class Action & Claims Solutions, Inc. (“Epiq”). The following statements are based on my personal knowledge and information provided by other Epiq employees working under my supervision and, if called on to do so, I could and would testify competently hereto.

2. Epiq was authorized to be the Claims Administrator pursuant to the Court’s October 31, 2023, Order Granting Motion for Preliminary Approval (the “Order”), and in accordance with the Stipulation and Settlement Agreement dated June 30, 2023 (the “Stipulation”) in connection with the Settlement of the above-captioned action.¹ I submit this Declaration in order to advise the Parties and the Court regarding the implementation of the Court-approved noticing, and to report on Epiq’s handling to date of the notice administration, in accordance with the Order and the Stipulation.

3. Epiq was established in 1968 as a client services and data processing company. Epiq has administered bankruptcies since 1985 and settlements since 1993. Epiq has routinely developed and executed notice programs and administrations in a wide variety of mass action contexts including settlements of consumer, antitrust, products liability, and labor and employment class actions, settlements of mass tort litigation, Securities and Exchange Commission

¹ Unless otherwise defined herein, all capitalized terms shall have the same meaning as set forth in the Stipulation and Agreement of Settlement (the “Stipulation”).

1 enforcement actions, Federal Trade Commission disgorgement actions, insurance disputes,
2 bankruptcies, and other major litigation. Epiq has administered more than 4,500 settlements,
3 including some of the largest and most complex cases ever settled. Epiq’s class action case
4 administration services include administering notice requirements, designing direct-mail notices,
5 implementing notice fulfillment services, coordinating with the United States Postal Service
6 (“USPS”), developing and maintaining notice websites and dedicated telephone numbers with
7 recorded information and/or live operators, processing exclusion requests, objections, claim forms
8 and correspondence, maintaining class member databases, adjudicating claims, managing
9 settlement funds, and calculating claim payments and distributions. As an experienced neutral
10 third-party administrator working with settling parties, courts, and mass action participants, Epiq
11 has handled hundreds of millions of notices, disseminated hundreds of millions of emails, handled
12 millions of phone calls, processed tens of millions of claims, and distributed hundreds of billions
13 in payments.

14 **OVERVIEW OF ADMINISTRATION**

15 4. Pursuant to the Order, Epiq was retained to provide, and did provide, the following
16 administrative services for the benefit of stockholders, as they are defined in the Stipulation and
17 Order:

- 18 • Publish a Summary Notice one time in *Investor’s Business Weekly*;
- 19 • Publish a Summary Notice one time in *PR Newswire*,
- 20 • Publish the Class Notice on the DTC Legal Notice System,
- 21 • Mail the Postcard Notice to potential Settlement Class Members and nominees;
- 22 • Establish and maintain a dedicated Settlement Website;
- 23 • Establish and maintain a dedicated toll-free telephone number;
- 24 • Review and process Requests for Exclusion sent to or received by Epiq;
- 25 • Review and track objections sent to or received by Epiq;
- 26 • Receive, process, track, and report on Proofs of Claim sent to or received by Epiq;

- Upon approval of the Court, distribute the Net Settlement Fund to eligible Claimants.

DATA TRANSFER

5. On July 28, 2023, Lead Counsel provided Epiq with two (2) electronic files containing potential Settlement Class Member data. The file contained 3,535 names, mailing addresses, and email addresses for potential Settlement Class Members (the “Class Data”).

6. Epiq loaded the Class Data into a database it created for administering the proposed Settlement. Epiq assigned unique identifiers to each potential Settlement Class Member included in the Class Data in order to maintain the ability to track them throughout the claims administration process. Epiq removed exact duplicate records, which resulted in 3,097 unique Settlement Class Member records..

MAILING OF THE POSTCARD NOTICE

7. Prior to commencing any mailings for this matter, Epiq established a post office box (“P.O. Box”) to mail notice from and to allow potential Settlement Class Members to contact Epiq or submit documents by mail. Epiq has and will continue to maintain the P.O. Box throughout the claims administration process.

8. On November 30, 2023, Epiq mailed 3,097 Postcard Notices via First Class USPS Mail to all potential Settlement Class Members included in the Class Data. Epiq also mailed a Postcard Notice to the 1,004 U.S. banks, brokerage firms, institutions, and other third-party nominees (“Nominees”) listed in Epiq’s proprietary Nominee database. Attached hereto as Exhibit A is a true and correct copy of the Postcard Notice

9. Nominees purchase securities on behalf of beneficial owners. They are beneficial purchasers whose securities are held in “street name” (i.e. the securities are purchased and held by one of the Nominees on behalf of the beneficial purchaser). Epiq’s proprietary list of Nominees includes the vast majority of Nominees listed on the Depository Trust Company Security Position Reports as well as the largest and most common broker firms, banks, and other institutions

1 involving publicly-traded securities. This list is contained in a database created and maintained by
2 Epiq. In Epiq’s experience, the institutions included in the Nominee Database represent a
3 significant majority of the beneficial holders of securities in most settlements involving publicly-
4 traded companies.

5 10. As of January 31, 2024: (a) a total of 15,461 Postcard Notices have been
6 disseminated to potential Settlement Class Members and their nominees by first class U.S. mail;
7 (b) 18,415 Notice Packets have been mailed to nominees; and (c) one link to the Notice and Claim
8 Form was provided to a nominee who then disseminated notice to 33,457 potential Settlement
9 Class Members. Accordingly, as of January 31, 2024, notice has been disseminated to 67,333
10 potential Settlement Class Members and nominees. In addition, Epiq has re-mailed 124 Notice
11 Postcards to persons whose original mailing was returned to Epiq as undeliverable by the USPS
12 and for whom updated addresses were provided to Epiq by the USPS.

13
14 **PUBLICATION OF THE NOTICE**

15 11. Epiq also formatted the Notice of (I) Pendency of Class Action, Certification of
16 Settlement Class, and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for
17 an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “long-form Class
18 Notice”). On November 30, 2023, Epiq caused the long-form Class Notice to be published on the
19 DTC Legal Notice System website. Attached hereto as Exhibit B is a true and correct copy of the
20 long-form Class Notice.

21 12. Epiq caused the Summary Notice of (I) Pendency of Class Action, Certification of
22 Settlement Class, and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for
23 an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Summary Notice”)
24 to be published in *Investor’s Business Weekly* and transmitted over the *PR Newswire* on December
25 4th, 2023. Attached as Exhibit C is a Confirmation of Publication attesting to the publication of
26 the Summary Notice in *Investor’s Business Weekly* and an image of the web page article attesting
27

1 to the transmittal of the Summary Notice over *PR Newswire*.

2
3 **SETTLEMENT WEBSITE**

4 13. On or about November 30, 2023, Epiq established and is maintaining a website
5 dedicated to this Settlement (www.BloomEnergySettlement.com) to provide additional
6 information to potential Settlement Class Members. Users of the website can download copies of
7 the long-form Class Notice, the Claim Form, the Stipulation and Agreement of Settlement, and the
8 Preliminary Approval Order, among other relevant documents. The Settlement Website also
9 includes a link to an online claim filing module through which potential Settlement Class Members
10 can submit their claims. The web address was set forth in the Summary Notice, the Postcard
11 Notice, the long-form Class Notice, and on the Claim Form. The website is accessible 24 hours a
12 day, seven days a week. Epiq will continue operating, maintaining and, as appropriate, updating
13 the website until the conclusion of this administration.

14
15 **CALL CENTER SERVICES**

16 14. Epiq reserved a toll-free phone number for the Settlement, (844) 334-1078, which
17 was set forth in the Postcard Notice, long-form Class Notice, the Proof of Claim and Release Form
18 (“Claim Form”), the Summary Notice, and on the Settlement website.

19 15. The toll-free number connects callers with an Interactive Voice Recording (“IVR”).
20 The IVR provides callers with pre-recorded information, including a brief summary about the
21 Action and the option to request a copy of the Notice, and to speak with an operator during business
22 hours. The toll-free telephone line with pre-recorded information is available 24 hours a day,
23 seven days a week.

24 16. Epiq made the IVR available on or about November 30, 2023, the same date Epiq
25 began mailing the Notice Postcards.

1 **REQUESTS FOR EXCLUSION**

2 17. Potential Settlement Class Members who wish to be excluded from the Settlement
3 Class are required to mail or deliver their written request to Epiq so that the request is received by
4 March 18, 2024. This deadline has not yet passed. As of the date of this Declaration, Epiq has not
5 received any such request.

6 **OBJECTIONS RECIEVED**

7 18. Pursuant to the long-form Class Notice, Settlement Class Members who wish to
8 object to the proposed Settlement are required to submit written objections to the Clerk of the
9 Court, such that they are filed with the Court on or before the objection deadline of March 18,
10 2024.² As of January 31, 2024, Epiq is not aware of and has not received any written objections to
11 the proposed Settlement.

12
13 I declare under the laws of the United States of America that the foregoing is true and
14 correct to the best of my knowledge.

15 Executed on January 31, 2024, at Louisville, Kentucky.

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21 _____
22 Susanna Webb
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27 ² Objections are to be filed with the Court and mailed to counsel. Epiq has not received any misdirected objections.
28

EXHIBIT A

Bloom Energy Settlement
c/o Epiq Global
PO Box 2230
Portland, OR 97208-2230

BARCODE
NO-PRINT
ZONE

FIRST-CLASS MAIL
U.S. POSTAGE
PAID
Portland, OR
PERMIT NO. 2882

COURT-ORDERED LEGAL NOTICE

**Important Notice about a Securities Class
Action Settlement.**

**You may be entitled to a CASH payment.
This Notice may affect your legal rights.
Please read it carefully.**

Elissa M. Roberts v. Bloom Energy Corp., et
al. Case No. 4:19-cv-02935-HSG (N.D. Cal.)

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THIS CARD PROVIDES ONLY LIMITED INFORMATION ABOUT THE SETTLEMENT. PLEASE VISIT WWW.BLOOMENERGYSETTLEMENT.COM FOR MORE INFORMATION.

The U.S. District Court for the Northern District of California (the “Court”) has preliminarily approved a proposed Settlement of claims against Defendants Bloom Energy Corporation (“Bloom”), KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, Kelly A. Ayotte, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co. Incorporated (collectively, the “Settling Defendants”). The Settlement would resolve a lawsuit in which Plaintiffs allege the Settling Defendants disseminated false and misleading statements which had the effect of artificially inflating the price of Bloom common shares during the Class Period. Settling Defendants deny any wrongdoing. You received this Postcard Notice because you or someone in your family may have purchased or otherwise acquired common shares of Bloom from July 25, 2018, to March 31, 2020, inclusive. Settling Defendants have agreed to a Settlement Amount of \$3,000,000 in exchange for the settlement of this case and the Releases by Settlement Class Members of claims related to this case. The Settlement provides that the Settlement Fund, after deduction of any Court-approved attorneys’ fees and expenses, notice and administration costs, and taxes, is to be divided among all Settlement Class Members who submit a valid Claim Form. **For all details of the Settlement, read the Stipulation and full Notice, available at www.BloomEnergySettlement.com.**

Your share of the Settlement proceeds will depend on the number of valid Claims submitted, and the number, size and timing of your transactions in Bloom common shares. If every eligible Settlement Class Member submits a valid Claim Form, the average recovery will be \$0.04 per eligible share before expenses and other Court-ordered deductions. Your award will be determined pro rata based on the number of claims submitted. This is further explained in the detailed Notice found on the Settlement website.

To qualify for payment, you must submit a Claim Form. The Claim Form can be found on the website www.BloomEnergySettlement.com or will be mailed to you upon request to the Claims Administrator (844-334-1078).

Claim Forms must be submitted online or postmarked by March 29, 2024. If you do not want to be legally bound by the Settlement, you must exclude yourself by March 18, 2024, or you will not be able to sue the Settling Defendants about the legal claims in this case. If you exclude yourself, you cannot get money from this Settlement. Lead Counsel’s motions for i) Final Approval of the Settlement; ii) Attorney’s Fees and Reimbursement of Expenses; and iii) Awards to Plaintiffs are due on February 1, 2024. Motions and supporting materials will be posted to www.BloomEnergySettlement.com once filed. If you want to object to the Settlement or the motions, you may file an objection by March 18, 2024. The detailed Notice explains how to submit a Claim Form, exclude yourself or object.

The Court will hold a hearing in this case on April 18, 2024, to consider whether to approve the Settlement and a request by the lawyers representing the Settlement Class for up to 33% of the Settlement Fund in attorneys’ fees, plus actual expenses up to \$85,000 for litigating the case and negotiating the Settlement. You may attend the hearing and ask to be heard by the Court, but you do not have to. The Court reserves the right to hold the Settlement Hearing telephonically or by other virtual means. For more information, call toll-free (844-334-1078) or visit the website www.BloomEnergySettlement.com and read the detailed Notice.

EXHIBIT B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELISSA M. ROBERTS, Individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

v.

BLOOM ENERGY CORPORATION, KR
SRIDHAR, RANDY FURR, L. JOHN DOERR,
SCOTT SANDELL, EDDY ZERVIGON, PETER
TETI, MARY K. BUSH, KELLY A. AYOTTE, J.P.
MORGAN SECURITIES LLC, MORGAN STANLEY
& CO. LLC, CREDIT SUISSE SECURITIES (USA)
LLC, KEYBANC CAPITAL MARKETS INC.,
MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED, ROBERT W. BAIRD & CO.,
INCORPORATED, COWEN AND COMPANY, LLC,
HSBC SECURITIES (USA) INC., OPPENHEIMER
& CO. INC., RAYMOND JAMES & ASSOCIATES,
INC., and PRICEWATERHOUSECOOPERS LLP,

Defendants.

Case No. 4:19-cv-02935-HSG

Honorable Haywood S. Gilliam, Jr.

**NOTICE OF (I) PENDENCY OF CLASS ACTION, CERTIFICATION OF
SETTLEMENT CLASS, AND PROPOSED SETTLEMENT; (II) SETTLEMENT
FAIRNESS HEARING; AND (III) MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

NOTICE OF PENDENCY OF CLASS ACTION: Please be advised that your rights may be affected by the above-captioned securities class action (the "Action") pending in the United States District Court for the Northern District of California (the "Court"), if you purchased or otherwise acquired common shares of Bloom Energy Corporation ("Bloom") from July 25, 2018 to March 31, 2020, inclusive.

NOTICE OF SETTLEMENT: Please also be advised that Plaintiff James Everett Hunt ("Lead Plaintiff") and additional plaintiffs Juan Rodriguez, Kurt Voutaz, Joel White, Andrew Austin, and Ryan Fishman (together with Lead Plaintiff, "Plaintiffs"), on behalf of themselves and the Settlement Class (as defined in ¶ 19 below), have reached a proposed settlement of the Action for \$3,000,000 in cash that, if approved, will resolve all claims in the Action (the "Settlement").

PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of cash from the Settlement. If you are a member of the Settlement Class, your legal rights will be affected whether or not you act.

If you have any questions about this Notice, the proposed Settlement, or your eligibility to participate in the Settlement, please DO NOT contact Bloom, any other Defendants in the Action, or their counsel. All questions should be directed to Lead Counsel or the Claims Administrator (see ¶ 80 below).

1. **Description of the Action and the Settlement Class:** This Notice relates to a proposed Settlement of claims in a pending securities class action brought by investors alleging, among other things, that Defendants Bloom Energy Corporation ("Bloom"), KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, Kelly A. Ayotte¹, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and

¹ KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, and Kelly A. Ayotte are referred to collectively as the "Individual Defendants."

Robert W. Baird & Co. Incorporated² (collectively, the “Settling Defendants”) violated the federal securities laws by making false and misleading statements and/or concealing material adverse facts. The proposed Settlement resolves the claims in the Action concerning whether the Settling Defendants violated the federal securities laws by making materially false and misleading statements relating to Bloom Energy Servers’ construction delays, efficiency, as well as the dismissed claims regarding certain accounting statements. The proposed Settlement also bars any and all claims for contribution or indemnity against any of the Releasees arising out of, relating to or concerning any acts, facts, statements, or omissions that were or could have been alleged in the Action. A more detailed description of the Action is set forth in ¶¶ 11-18 below. The proposed Settlement, if approved by the Court, will settle claims of the Settlement Class, as defined in ¶ 19 below.

2. **Statement of the Settlement Class’s Recovery:** Subject to Court approval, Plaintiffs, on behalf of themselves and the Settlement Class, have agreed to settle the Action in exchange for a settlement payment of \$3,000,000 in cash (the “Settlement Amount”) caused by Bloom to be deposited into an escrow account. The Net Settlement Fund (*i.e.*, the Settlement Amount plus any and all interest earned thereon (the “Settlement Fund”) less (i) taxes on the income thereof and any Tax Expenses; (ii) Notice and Administration Expenses; (iii) Attorneys’ Fees and Expenses authorized by the Court; (iv) any Award to Plaintiffs authorized by the Court; and (v) any other fees and expenses authorized by the Court) will be distributed in accordance with a plan of allocation that is approved by the Court, which will determine how the Net Settlement Fund shall be allocated among members of the Settlement Class. The proposed plan of allocation (the “Plan of Allocation”) is set forth on pages 9-13 below.

3. **Estimate of Average Amount of Recovery Per Share:** Based on Plaintiffs’ damages expert’s estimates of the number of common shares of Bloom common stock purchased or otherwise acquired during the Settlement Class Period that may have been affected by the conduct at issue in the Action and assuming that all Settlement Class Members elect to participate in the Settlement, the estimated average recovery (before the deduction of any Court-approved fees, expenses and costs as described herein) per eligible share is \$0.04. Settlement Class Members should note, however, that the foregoing average recovery per share is only an estimate. Some Settlement Class Members may recover more or less than this estimated amount depending on, among other factors, the number of shares they purchased or otherwise acquired, when and at what prices they purchased/acquired or sold their Bloom common shares, and the total number of valid Claim Forms submitted. Distributions to Settlement Class Members will be made based on the Plan of Allocation set forth herein (*see* pages 9-13 below) or such other plan of allocation as may be ordered by the Court.

4. **Average Amount of Damages Per Share:** The Settling Parties do not agree on the average amount of damages per share that would be recoverable if Plaintiffs were to prevail in the Action. Among other things, Settling Defendants deny that they violated the federal securities laws and that any damages were suffered by any members of the Settlement Class.

5. **Attorneys’ Fees and Expenses Sought:** Plaintiffs’ Counsel, which have been prosecuting the Action on a wholly contingent basis since its inception in 2019, have not received any payment of attorneys’ fees for their representation of the Settlement Class and have advanced the funds to pay expenses necessarily incurred to prosecute this Action. Court-appointed Lead Counsel, Levi & Korsinsky, LLP, will apply to the Court for an award of attorneys’ fees in an amount not to exceed 33% of the Settlement Fund. In addition, Lead Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution and resolution of the claims against the Defendants, in an amount not to exceed \$85,000 and an “award of reasonable costs and expenses” to Plaintiffs not to exceed \$5,000 individually or \$12,500 total. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses. Estimates of the average cost per affected Bloom common share, if the Court approves Lead Counsel’s fee and expense application, is \$0.01 per eligible security.

6. **Identification of Attorneys’ Representatives:** Plaintiffs and the Settlement Class are represented by Nicholas Porritt, Esq. of Levi & Korsinsky, LLP, 1101 Vermont Ave. NW Suite 700, Washington, D.C. 20005, (202) 524-4290, nporritt@zlk.com.

7. **Reasons for the Settlement:** Plaintiffs’ principal reason for entering into the Settlement is the substantial immediate cash benefit for the Settlement Class without the risk or the delays inherent in further litigation. Moreover, the substantial cash benefit provided under the Settlement must be considered against the significant risk that a smaller recovery – or indeed no recovery at all – might be achieved after contested motions, a trial of the Action and the likely appeals that would follow a trial. This process could be expected to last several years. Settling Defendants, who have denied and continue to deny all allegations of wrongdoing, fault, liability, or damages whatsoever asserted

² J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co. Incorporated are referred to collectively as the “Underwriter Defendants.”

by Plaintiffs, are entering into the Settlement solely to eliminate the uncertainty, burden and expense of further protracted litigation. Settling Defendants have also denied, *inter alia*, the allegations that Plaintiffs or the Settlement Class have suffered damages or that Plaintiffs or the Settlement Class were harmed by the conduct alleged in the Action. Settling Defendants continue to believe the claims asserted against them in the Action are without merit. Defendants have not conceded or admitted any wrongdoing or liability, are not doing so by entering into this Settlement, and disclaim any and all wrongdoing and liability whatsoever.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
SUBMIT A CLAIM FORM ONLINE OR POSTMARKED NO LATER THAN MARCH 29, 2024.	This is the only way to be eligible to receive a payment from the Settlement Fund. If you are a Settlement Class Member and you remain in the Settlement Class, you will be bound by the Settlement as approved by the Court and you will give up any Released Claims (defined in ¶ 28 below) that you have against Settling Defendants and the other Released Defendants' Persons (defined in ¶ 29 below), so it is in your interest to submit a Claim Form.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN MARCH 18, 2024.	If you exclude yourself from the Settlement Class, you will not be eligible to receive any payment from the Settlement Fund. This is the only option that allows you ever to be part of any other lawsuit against any of the Settling Defendants or the other Released Defendants' Persons concerning the Released Claims.
OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN MARCH 18, 2024.	If you do not like the proposed Settlement, the proposed Plan of Allocation, the request for attorneys' fees and reimbursement of Litigation Expenses, or the proposed award to Plaintiffs you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation or the fee and expense request unless you are a Settlement Class Member and do not exclude yourself from the Settlement Class.
GO TO A HEARING ON APRIL 18, 2024 AT 2:00 P.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN MARCH 18, 2024.	Filing a written objection and notice of intention to appear by March 18, 2024 allows you to speak in Court, at the discretion of the Court, about the fairness of the proposed Settlement, the Plan of Allocation, the request for attorneys' fees and reimbursement of Litigation Expenses, and/or award to Plaintiffs. If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection.
DO NOTHING.	If you are a member of the Settlement Class and you do not submit a valid Claim Form, you will not be eligible to receive any payment from the Settlement Fund. You will, however, remain a member of the Settlement Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court in the Action.

WHAT THIS NOTICE CONTAINS

Why Did I Get The Postcard Notice?4
 What Is This Case About?4
 How Do I Know If I Am Affected By The Settlement? Who Is Included
 In The Settlement Class?..... 5
 What Are Plaintiffs’ Reasons For The Settlement?6
 What Might Happen If There Were No Settlement?.....6
 How Are Settlement Class Members Affected By The Action And
 The Settlement?7
 How Do I Participate In The Settlement? What Do I Need To Do?.....8
 How Much Will My Payment Be?.....8
 What Payment Are The Attorneys For The Settlement Class Seeking?
 How Will The Lawyers Be Paid? 13
 What If I Do Not Want To Be A Member Of The Settlement Class?
 How Do I Exclude Myself? 13
 When And Where Will The Court Decide Whether To Approve The Settlement?
 Do I Have To Come To The Hearing? May I Speak At The Hearing If I
 Don’t Like The Settlement?..... 14
 What If I Bought Shares On Someone Else’s Behalf?..... 15
 Can I See The Court File? Whom Should I Contact If I Have Questions?..... 15

WHY DID I GET THE POSTCARD NOTICE?

8. The Court directed that the Postcard Notice be mailed to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or otherwise acquired Bloom common shares during the relevant period. The Court also directed that this Notice be posted online at www.BloomEnergySettlement.com and mailed to you upon request to the Claims Administrator. The Court has directed us to disseminate these notices because, as a potential Settlement Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights. If the Court approves the Settlement, and the Plan of Allocation (or some other plan of allocation), the claims administrator selected by Plaintiffs and approved by the Court will make payments pursuant to the Settlement after any objections and appeals are resolved.

9. The purpose of this Notice is to inform you of the existence of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Settlement Class if you wish to do so. It is also being sent to inform you of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation and the motion by Lead Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses (the “Settlement Hearing”). See paragraph 70 below for details about the Settlement Hearing, including the date and location of the hearing.

10. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and a plan of allocation, then payments to Authorized Claimants will be made after any appeals are resolved and after the completion of all claims processing. Please be patient, as this process can take some time to complete.

WHAT IS THIS CASE ABOUT?

11. On May 28, 2019, the initial complaint in this Action was filed, captioned *Roberts v. Bloom Energy Corp., et al.*, Case No. 3:19-cv-02935 (N.D. Cal.), alleging federal securities law violations. On September 3, 2019, the Court appointed James Everett Hunt as lead plaintiff and approved Plaintiff’s selection of Levi & Korsinsky, LLP as Lead Counsel for the proposed class.

12. On April 21, 2020, Lead Plaintiff Hunt and additional plaintiffs Juan Rodriguez, Kurt Voutaz, Scott Kline, Joel White, Andrew Austin, and Ryan Fishman (collectively, “Plaintiffs”) filed the Second Amended Complaint against Bloom, KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Colin Powell, Peter Teti, Mary K. Bush, Kelly A. Ayotte, the Underwriter Defendants, and adding PricewaterhouseCoopers LLP (“PwC”) as an additional defendant. In pertinent part, the Plaintiffs alleged that Defendants violated the federal securities laws by making materially false and misleading statements relating to construction delays, Bloom’s Energy Servers’ efficiency, and accounting. Plaintiffs filed the operative “Corrected Second Amended Complaint” on June 30, 2023 solely to correct the class period.

13. On July 1, 2020, three motions to dismiss Plaintiffs’ Second Amended Complaint were filed by Bloom, the Individual Defendants, General Powell, the Underwriter Defendants, and PwC. On September 29, 2021, the Court entered an order granting in part and denying in part the Defendants’ motions to dismiss. Following the order, the claims that remained were those arising out of allegedly false or misleading statements in Bloom’s IPO registration statement regarding construction delays and beginning of life efficiency for Bloom’s Energy Servers. Plaintiffs sought to appeal several aspects of the Court’s motion to dismiss order and the Court denied Plaintiffs’ motion for entry of judgment and motion for interlocutory appeal. Plaintiffs also voluntarily dismissed General Powell after he passed away on October 18, 2021.

14. Beginning in August of 2022, while fact discovery was ongoing, the Settling Parties began preliminary discussions regarding settlement. On December 20, 2022, after exchanging mediation briefs detailing their respective theories of liability and damages, the Settling Parties attended a full-day virtual mediation with Ms. Michelle Yoshida at Phillips ADR Enterprises. The Settling Parties did not reach a settlement during the mediation but continued to engage in post-mediation discussions.

15. Plaintiffs and Settling Defendants continued to negotiate in good faith and came to an agreement in principle on January 6, 2023 to settle and release all claims asserted against Settling Defendants in the Action in return for a cash payment of \$3,000,000 for the benefit of the Settlement Class, subject to certain terms and conditions and the execution of a customary “long form” stipulation and agreement of settlement and related papers.

16. Based on the investigation and mediation of the case and Plaintiffs’ direct oversight of the prosecution of this matter and with the advice of their counsel, each of the Plaintiffs has agreed to settle and release the claims raised in the Action pursuant to the terms and provisions of the Settlement, after considering, among other things, (a) the substantial financial benefit that Plaintiffs and the other members of the Settlement Class will receive under the proposed Settlement; and (b) the significant risks and costs of continued litigation and trial.

17. Settling Defendants are entering into the Settlement solely to eliminate the uncertainty, burden and expense of further protracted litigation. Each of the Settling Defendants has denied and continues to deny each, any, and all allegations of wrongdoing, fault, liability, or damage whatsoever asserted in the Action, and the Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Settling Defendants, or any other of the Released Defendants’ Persons (defined in ¶ 29 below), with respect to any claim or allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Settling Defendants have, or could have, asserted. Similarly, the Settlement shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any Plaintiff of any infirmity in any of the claims asserted in the Action, or an admission or concession that any of the Settling Defendants’ defenses to liability had any merit. The Settlement resolves all of the claims in the Action against the Settling Defendants, as well as certain other claims or potential claims, whether known or unknown.

18. On October 31, 2023, the Court preliminarily approved the Settlement, authorized the Postcard Notice to be mailed to potential Settlement Class Members and this Notice to be posted online and mailed to potential Settlement Class Members upon request, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

**HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?
WHO IS INCLUDED IN THE SETTLEMENT CLASS?**

19. If you are a member of the Settlement Class, you are subject to the Settlement, unless you timely request to be excluded. The Settlement Class consists of:

all Persons and entities that purchased or otherwise acquired Bloom Energy Corporation’s publicly traded common stock either (i) pursuant and/or traceable to the Registration Statement for Bloom’s IPO or (ii) on the open market between July 25, 2018 and March 31, 2020, and were damaged thereby. Excluded from the Settlement Class are:

(i) Settling Defendants' immediate family members; (ii) the officers and directors of Bloom and the Underwriter Defendants, at all relevant times; (iii) the affiliates and subsidiaries of Bloom, at all relevant times; (iv) Bloom's affiliates and employee retirement and/or benefit plan(s) and their participants or beneficiaries to the extent they purchased or acquired Bloom common stock pursuant or traceable to the Registration Statement through any such plan(s); (v) any entity in which Settling Defendants have a controlling interest; and (vi) the legal representatives, heirs, successors, or assigns of any such excluded person or entity. Provided, however, that any "Investment Vehicle" shall not be excluded from the Settlement Class. "Investment Vehicle" means any investment company, separately managed account, collective investment trust, or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, fund of funds, hedge funds, and retirement accounts and employee benefit plans, in which any Settling Defendant has or may have a direct or indirect interest, or as to which that Settling Defendant or its affiliates may act as an investment advisor or manager, but in which any Settling Defendant alone or together with its, his or her respective affiliates is not a majority owner or does not hold a majority beneficial interest. Also excluded from the Settlement Class are any persons or entities who or which exclude themselves by submitting a request for exclusion in accordance with the requirements set forth in this Notice. See "What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself," on page 13 below.

PLEASE NOTE: RECEIPT OF THE POSTCARD NOTICE DOES NOT MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT.

If you are a Settlement Class Member and you wish to be eligible to participate in the distribution of proceeds from the Settlement, you are required to submit the Claim Form that is available online at www.BloomEnergySettlement.com or which can be mailed to you upon request to the Claims Administrator, and the required supporting documentation as set forth therein, online or postmarked no later than March 29, 2024.

WHAT ARE PLAINTIFFS' REASONS FOR THE SETTLEMENT?

20. Plaintiffs and Lead Counsel believe that the claims asserted against Settling Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against the Settling Defendants through trial and appeals, as well as the very substantial risks they would face in establishing liability and damages. In order to recover damages, Plaintiffs would have to prevail at several stages – motions for summary judgment, trial, and if they prevailed on those, on the appeals that were likely to follow. Additionally, the District Court has already dismissed a substantial portion of Plaintiffs' claims, and there was no guarantee that Plaintiffs would succeed on appeal. Thus, there were very significant risks attendant to the continued prosecution of the Action.

21. In light of these risks, the amount of the Settlement and the immediacy of recovery to the Settlement Class, Plaintiffs and Lead Counsel believe that the proposed Settlement is fair, reasonable and adequate, and in the best interests of the Settlement Class. Plaintiffs and Lead Counsel believe that the Settlement provides a substantial benefit to the Settlement Class, namely \$3,000,000 in cash (less the various deductions described in this Notice), as compared to the risk that the claims in the Action would produce a smaller, or no recovery after summary judgment, trial and appeals, possibly years in the future.

22. Settling Defendants have denied and continue to deny the claims asserted against them in the Action and have denied and continue to deny having engaged in any wrongdoing or violation of law of any kind whatsoever. Settling Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission of any wrongdoing by Settling Defendants.

WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

23. If there were no Settlement and Plaintiffs failed to establish any essential legal or factual element of their claims against Settling Defendants, neither Plaintiffs nor the other Settlement Class Members would recover anything from Settling Defendants. Also, if Settling Defendants were successful in proving any of their defenses, either at summary judgment, at trial or on appeal, the Settlement Class could recover substantially less than the amount provided in the Settlement, or nothing at all.

**HOW ARE SETTLEMENT CLASS MEMBERS AFFECTED
BY THE ACTION AND THE SETTLEMENT?**

24. As a Settlement Class Member, you are represented by Plaintiffs and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, “When And Where Will The Court Decide Whether To Approve The Settlement?,” on page 14 below.

25. If you are a Settlement Class Member and do not wish to remain a Settlement Class Member, you may exclude yourself from the Settlement Class by following the instructions in the section entitled, “What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself?,” on page 13 below.

26. If you are a Settlement Class Member and you wish to object to the Settlement, the Plan of Allocation, or Lead Counsel’s application for attorneys’ fees and reimbursement of Litigation Expenses, or the award to Plaintiffs and if you do not exclude yourself from the Settlement Class, you may present your objections by following the instructions in the section entitled, “When And Where Will The Court Decide Whether To Approve The Settlement?,” on page 14 below.

27. If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you will be bound by any orders issued by the Court. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Settling Defendants and will provide that, upon the Effective Date of the Settlement, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, will have fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Claim (as defined in ¶ 28 below) against the Settling Defendants and the other Released Defendant Persons (as defined in ¶ 29 below), and shall forever be barred and enjoined from prosecuting any or all of the Released Claims against any of the Released Defendant Persons.

28. “Released Claims” means any and all claims, rights, demands, obligations, damages, actions or causes of action, or liabilities whatsoever, of every nature and description, including both known claims and Unknown Claims, that have been or could have been asserted in this action, or any other action arising under the federal securities laws, that (a) arise out of, are based upon, or relate in any way to any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to in this action, or which could have been alleged in this action, or (b) arise out of, are based upon, or relate in any way to the purchase, acquisition, sale, disposition, or holding of any Bloom securities acquired pursuant and/or traceable to the Registration Statement for Bloom’s IPO or on the open market between July 25, 2018 and March 31, 2020, provided, however, that the following are expressly excluded from the definition of Released Claims: all claims that have been or may in the future be brought against PwC. In addition, “Released Claims” does not include any claims to enforce any of the terms of the Settlement.

29. “Released Defendant Persons” means Bloom, KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, Kelly A. Ayotte, General Colin L. Powell, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co. Incorporated and their Related Persons. Notwithstanding any other term or provision to the contrary contained in this Stipulation, however, “Released Defendant Persons” does not include, and instead specifically excludes Bloom’s auditor and accountant PwC.

30. “Unknown Claims” means: (i) any claims that the Plaintiffs or any Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Persons, which if known by him, her, or it, might have affected his, her, or its decision(s) with respect to the Settlement, including, but not limited to, the decision not to object to the Settlement, provided such claim arises out of or relates to the purchase or acquisition of Bloom common stock; and (ii) any Released Defendants’ Claims that any Settling Defendant does not know or expect to exist in his, her, or its favor, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement.

31. With respect to any and all Released Claims and Released Defendants’ Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Settling Parties shall expressly waive, and each of the Settlement Class Members shall be deemed to have waived and by operation of the Judgment shall have waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law

that is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides: “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or releasing party.” The Plaintiffs acknowledge, and the Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the inclusion of “Unknown Claims” in the definitions of Released Claims and Released Defendants’ Claims was separately bargained for and a key element of the Settlement of which this release is a part.

32. The Judgment will also provide that, upon the Effective Date of the Settlement, Settling Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, will have fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants’ Claim (as defined in ¶ 33 below) against Plaintiffs and the other Released Plaintiff Persons (as defined in ¶ 34 below), and shall forever be barred and enjoined from prosecuting any or all of the Released Defendants’ Claims against any of the Released Plaintiff Persons.

33. “Released Defendants’ Claims” means all claims, demands, rights, remedies, liabilities, and causes of action of every nature and description whatsoever, including both known claims and Unknown Claims, by any of the Released Defendant Persons (or any of their successors or assigns) against any of the Plaintiffs or any of Plaintiffs’ attorneys which arise out of or relate in any way to the institution, prosecution, assertion, settlement, or resolution of this Action or the Released Claims, except for claims to enforce any of the terms of the Settlement.

34. “Released Plaintiff Persons” means (i) the Plaintiffs and all Settlement Class Members; and (ii) each of their Related Persons.

35. “Related Persons” with respect to a Person, means (a) their immediate family members and any trust that such Person is the settlor of or which is for their benefit and/or the benefit of their family; (b) their subsidiaries, parent entities, divisions, and departments, and their respective past and present officers, directors, employees, auditors, accountants, representatives, insurers, trustees, trustors, agents, attorneys, predecessors, successors, assigns, heirs, executors, and administrators, in their capacities as such. “Related Persons” does not include, and instead specifically excludes PwC in its capacity as Bloom’s auditor and accountant.

HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?

To be eligible for a payment from the proceeds of the Settlement, you must be a member of the Settlement Class and you must timely complete and return the Claim Form with adequate supporting documentation online **or postmarked no later than March 29, 2024**. A Claim Form is available on the website maintained by the Claims Administrator for the Settlement, www.BloomEnergySettlement.com, or you may request that a Claim Form be mailed to you by calling the Claims Administrator toll free at 1-844- 334-1078. Please retain all records of your ownership of and transactions in Bloom common shares, as they may be needed to document your Claim. If you request exclusion from the Settlement Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

HOW MUCH WILL MY PAYMENT BE?

36. At this time, it is not possible to make any determination as to how much any individual Settlement Class Member may receive from the Settlement.

37. Pursuant to the Settlement, Bloom has agreed to pay or caused to be paid three million dollars (\$3,000,000) in cash. The Settlement Amount will be deposited into an escrow account. The Settlement Amount plus any interest earned thereon is referred to as the “Settlement Fund.” If the Settlement is approved by the Court and the Effective Date occurs, the “Net Settlement Fund” (that is, the Settlement Fund less (i) taxes on the income thereof and any Tax Expenses; (ii) Notice and Administration Expenses; (iii) Attorneys’ Fees and Expenses authorized by the Court; (iv) any Award to Plaintiffs authorized by the Court; and (v) any other fees and expenses authorized by the Court) will be distributed to Settlement Class Members who submit valid Claim Forms, in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve.

38. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, has expired.

39. Neither Settling Defendants nor any other person or entity that paid any portion of the Settlement Amount on their behalf are entitled to get back any portion of the Settlement Fund once the Court's order or judgment approving the Settlement becomes Final. Settling Defendants shall not have any liability, obligation or responsibility for the administration of the Settlement, the disbursement of the Net Settlement Fund or the plan of allocation.

40. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

41. Unless the Court otherwise orders, any Settlement Class Member who fails to submit a Claim Form online or postmarked on or before March 29, 2024, shall be fully and forever barred from receiving payments pursuant to the Settlement but will in all other respects remain a Settlement Class Member and be subject to the provisions of the Stipulation, including the terms of any Judgment entered and the releases given. This means that each Settlement Class Member releases the Released Claims (as defined in ¶ 28 above) against the Released Defendant Persons (as defined in ¶ 29 above) and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Claims against any of the Released Defendant Persons whether or not such Settlement Class Member submits a Claim Form.

42. Participants in and beneficiaries of a plan covered by ERISA ("ERISA Plan") should NOT include any information relating to their transactions in Bloom common shares held through the ERISA Plan in any Claim Form that they may submit in this Action. They should include ONLY those shares or notes that they purchased or acquired outside of the ERISA Plan. Claims based on any ERISA Plan's purchases or acquisitions of Bloom common shares during the Class Period may be made by the plan's trustees. To the extent any of the Settling Defendants or any of the other persons or entities excluded from the Settlement Class are participants in the ERISA Plan, such persons or entities shall not receive, either directly or indirectly, any portion of the recovery that may be obtained from the Settlement by the ERISA Plan.

43. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Settlement Class Member.

44. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim Form.

45. Only Settlement Class Members, *i.e.*, persons and entities who purchased or otherwise acquired Bloom common shares during the Class Period will be eligible to share in the distribution of the Net Settlement Fund. Persons and entities that are excluded from the Settlement Class by definition or that exclude themselves from the Settlement Class pursuant to request will not be eligible to receive a distribution from the Net Settlement Fund and should not submit Claim Forms.

PROPOSED PLAN OF ALLOCATION

46. As discussed above, the Settlement provides \$3,000,000 in cash for the benefit of the Class. If the Settlement is approved by the Court, the Net Settlement Fund will be distributed to eligible Authorized Claimants – *i.e.*, members of the Class who timely submit valid Claim Forms that are accepted for payment by the Court – in accordance with this proposed Plan of Allocation ("Plan of Allocation" or "Plan") or such other plan of allocation as the Court may approve. Class Members who do not timely submit valid Claim Forms will not share in the Net Settlement Fund, but will otherwise be bound by the Settlement. The Court may approve this proposed Plan of Allocation, or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the settlement website, www.BloomEnergySettlement.com.

47. The objective of the Plan of Allocation is to distribute the Settlement proceeds equitably among those Class Members who suffered economic losses as a proximate result of the alleged wrongdoing. The Plan of Allocation is not a formal damage analysis, and the calculations made in accordance with the Plan of Allocation are not intended to be estimates of, or indicative of, the amounts that Class Members might have been able to recover after a trial. Nor are the calculations in accordance with the Plan of Allocation intended to be estimates of the amounts that will be paid to Authorized Claimants under the Settlement. The computations under the Plan of Allocation are only a method to weigh, in a fair and equitable manner, the claims of Authorized Claimants against one another for the purpose of making *pro rata* allocations of the Net Settlement Fund.

48. The Plan of Allocation was developed in consultation with Plaintiffs' damages expert. In developing the Plan of Allocation, Plaintiffs' damages expert calculated the estimated amount of alleged artificial inflation in the per share prices of Bloom common stock that was allegedly caused by Defendants' alleged materially false and misleading statements and omissions. In calculating the estimated artificial inflation allegedly caused by those misrepresentations

and omissions, Plaintiffs' damages expert considered the price change in Bloom common stock in reaction to the public disclosure that allegedly corrected the respective alleged misrepresentations and omissions, adjusting the price change for factors that were attributable to market forces, and for nonfraud related Company specific information.

49. In order to have recoverable damages under the federal securities laws, disclosure of the alleged misrepresentation and/or omission must be the cause of the decline in the price of the security. In this Action, Plaintiffs allege that corrective information allegedly impacting the price of Bloom common stock (referred to as a "corrective disclosure") affected the market on November 6, 2018; September 17, 2019; February 13, 2020; and April 1, 2020. In order to have a "Recognized Loss Amount" under the Plan of Allocation, shares of Bloom Energy publicly traded common stock must have been purchased or otherwise acquired during the Class Period and held through the issuance of the corrective disclosure.³

CALCULATION OF RECOGNIZED LOSS AMOUNTS

50. Based on the formulas stated below, a "Recognized Loss Amount" will be calculated for each purchase or acquisition of Bloom Energy publicly traded common stock during the Class Period that is listed on the Claim Form and for which adequate documentation is provided. If a Recognized Loss Amount calculates to a negative number or zero under the formula below, that Recognized Loss Amount will be zero.

51. For each share of Bloom Energy publicly traded common stock purchased or otherwise acquired from July 25, 2018 through and including the close of trading on March 31, 2020, and:

(a) Sold prior to November 6, 2018, the Recognized Loss Amount will be \$0.00;

(b) Sold from November 6, 2018, through and including the close of trading on March 31, 2020, the Recognized Loss Amount will be *the least of*: (i) the amount of alleged artificial inflation per share on the date of purchase/acquisition as stated in Table A minus the amount of alleged artificial inflation per share on the date of sale as stated in Table A; or (ii) the purchase/acquisition price minus the sale price.; and

(c) Sold from April 1, 2020, through but excluding the close of trading on June 29, 2020, the Recognized Loss Amount will be *the least of*: (i) the amount of alleged artificial inflation per share on the date of purchase/acquisition as stated in Table A; (ii) the purchase/acquisition price minus the sale price; or (iii) the purchase/acquisition price minus the "PSLRA Average Trading Price" indicated in Table B on the date of sale.;⁴ and

(d) Held as of the close of trading on June 29, 2020, the Recognized Loss Amount will be *the lesser of*: (i) the amount of alleged artificial inflation per share on the date of purchase/acquisition as stated in Table A; or (ii) the purchase/acquisition price minus \$7.76 per share.

³ Any transactions in Bloom common stock executed outside of regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next regular trading session.

⁴ Under Section 21D(e)(1) of the Exchange Act, "in any private action arising under this Act in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." Consistent with the requirements of the statute, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing prices of Bloom Energy common stock during the 90-day look-back period. The mean (average) closing price for Bloom Energy common stock at the end of this 90-day look-back period was \$7.76 per share.

Table A: Alleged Artificial Inflation in Bloom Energy Common Stock

Date Range	Alleged Artificial Inflation Per Share
July 25, 2018 through November 5, 2018	\$7.93
November 6, 2018 through September 16, 2019	\$2.14
September 17, 2019 through February 12, 2020	\$1.24
February 13, 2020 through March 31, 2020	\$0.41
April 1, 2020 and thereafter	\$0.00

TABLE B
Bloom Energy Closing Prices and PSLRA Average Trading Prices
April 1, 2020 – June 29, 2020

Date	Closing Price	PSLRA Average Trading Price	Date	Closing Price	PSLRA Average Trading Price
4/1/2020	\$4.46	\$4.46	5/15/2020	\$8.03	\$7.06
4/2/2020	\$4.96	\$4.71	5/18/2020	\$8.34	\$7.10
4/3/2020	\$4.79	\$4.74	5/19/2020	\$8.27	\$7.14
4/6/2020	\$5.24	\$4.86	5/20/2020	\$8.00	\$7.16
4/7/2020	\$5.09	\$4.91	5/21/2020	\$7.93	\$7.18
4/8/2020	\$5.86	\$5.07	5/22/2020	\$7.92	\$7.20
4/9/2020	\$6.14	\$5.22	5/26/2020	\$8.15	\$7.23
4/13/2020	\$5.94	\$5.31	5/27/2020	\$8.34	\$7.26
4/14/2020	\$7.30	\$5.53	5/28/2020	\$8.07	\$7.28
4/15/2020	\$6.55	\$5.63	5/29/2020	\$8.03	\$7.29
4/16/2020	\$6.48	\$5.71	6/1/2020	\$8.40	\$7.32
4/17/2020	\$6.83	\$5.80	6/2/2020	\$7.98	\$7.34
4/20/2020	\$6.80	\$5.88	6/3/2020	\$7.77	\$7.35
4/21/2020	\$6.77	\$5.94	6/4/2020	\$8.00	\$7.36
4/22/2020	\$7.95	\$6.08	6/5/2020	\$8.14	\$7.38
4/23/2020	\$7.92	\$6.19	6/8/2020	\$8.57	\$7.40
4/24/2020	\$8.28	\$6.32	6/9/2020	\$8.40	\$7.42
4/27/2020	\$8.47	\$6.44	6/10/2020	\$10.27	\$7.48
4/28/2020	\$7.72	\$6.50	6/11/2020	\$8.69	\$7.51
4/29/2020	\$7.98	\$6.58	6/12/2020	\$8.79	\$7.53
4/30/2020	\$7.67	\$6.63	6/15/2020	\$9.05	\$7.56
5/1/2020	\$7.35	\$6.66	6/16/2020	\$9.11	\$7.59
5/4/2020	\$7.21	\$6.69	6/17/2020	\$8.81	\$7.61
5/5/2020	\$7.34	\$6.71	6/18/2020	\$9.09	\$7.64
5/6/2020	\$7.88	\$6.76	6/19/2020	\$9.43	\$7.67
5/7/2020	\$7.85	\$6.80	6/22/2020	\$9.07	\$7.70
5/8/2020	\$8.30	\$6.86	6/23/2020	\$9.02	\$7.72
5/11/2020	\$8.39	\$6.91	6/24/2020	\$9.00	\$7.74
5/12/2020	\$8.58	\$6.97	6/25/2020	\$8.46	\$7.75
5/13/2020	\$7.85	\$7.00	6/26/2020	\$7.78	\$7.75
5/14/2020	\$8.03	\$7.03	6/29/2020	\$8.22	\$7.76

ADDITIONAL PROVISIONS

52. Given the costs of distribution, the Net Settlement Fund will be allocated among all Authorized Claimants whose Distribution Amount (defined in ¶ 56 below) is \$10.00 or greater.

53. If a claimant has more than one purchase or sale of Bloom publicly traded common stock, purchases and sales will be matched on a First In, First Out (“FIFO”) basis. Class Period sales will be matched first against any holdings at the beginning of the Class Period, and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Class Period.

54. A claimant’s “Recognized Claim” under the Plan of Allocation will be the sum of his, her, or its Recognized Loss Amounts.

55. The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which will be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. If any Authorized Claimant’s Distribution Amount calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

56. Purchases, acquisitions, and sales of Bloom Energy publicly traded common stock will be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance, or operation of law of Bloom Energy common stock during the Class Period will not be deemed a purchase, acquisition, or sale of Bloom Energy common stock for the calculation of an Authorized Claimant’s Recognized Loss Amount, nor will the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of Bloom common stock unless: (i) the donor or decedent purchased or otherwise acquired the shares during the Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to those shares; and (iii) it is specifically so provided in the instrument of gift or assignment.

57. “Short sales” of Bloom Energy common stock are not entitled to a recovery under the Plan of Allocation. The date of covering a “short sale” is deemed to be the date of purchase or acquisition of the Bloom common stock. The date of a “short sale” is deemed to be the date of sale of the Bloom common stock. In accordance with the Plan of Allocation, however, the Recognized Loss Amount on “short sales” and the purchases covering “short sales” is zero.

58. Option contracts are not securities eligible to participate in the Settlement. With respect to shares of Bloom Energy common stock purchased or sold through the exercise of an option, the purchase/sale date of the Bloom Energy common stock is the exercise date of the option and the purchase/sale price of the Bloom Energy common stock is the exercise price of the option.

59. If a claimant had a market gain with respect to his, her, or its overall transactions in Bloom publicly traded common stock during the Class Period, the value of the claimant’s Recognized Claim will be zero. If a claimant suffered an overall market loss with respect to his, her, or its overall transactions in Bloom common stock during the Class Period but that market loss was less than the claimant’s total Recognized Claim calculated above, then the claimant’s Recognized Claim will be limited to the amount of the actual market loss. For purposes of determining whether a claimant had a market gain with respect to his, her, or its overall transactions in Bloom common stock during the Class Period or suffered a market loss, the Claims Administrator will determine the difference between (i) the Total Purchase Amount⁵ and (ii) the sum of the Total Sales Proceeds⁶ and Holding Value.⁷ This difference will be deemed a claimant’s market gain or loss with respect to his, her, or its overall transactions in Bloom common stock during the Class Period.

60. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies remain in the fund six (6) months after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator,

⁵ The “Total Purchase Amount” is the total amount the claimant paid (excluding commissions and other charges) for Bloom common stock purchased or acquired during the Class Period.

⁶ The Claims Administrator will match any sales of Bloom Energy common stock during the Class Period first against the claimant’s opening position (the proceeds of those sales will not be considered for purposes of calculating market gains or losses). The total amount received (excluding commissions and other charges) for the remaining sales of Bloom Energy common stock sold during the Class Period will be the “Total Sales Proceeds”.

⁷ The Claims Administrator will ascribe a value of \$7.76 per share for Bloom Energy common stock purchased or acquired during the Class Period and still held as of the close of trading on June 29, 2020 (the “Holding Value”).

determine that it is cost-effective to do so, the Claims Administrator will conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determine that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance shall be contributed to non-sectarian, not-for-profit organization(s), to be recommended by Lead Counsel and approved by the Court.

61. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Plaintiffs' Counsel, Plaintiffs' damages expert, Settling Defendants, Settling Defendants' Counsel, any of the other Released Plaintiff Persons or Released Defendant Persons, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Settlement, the Plan of Allocation approved by the Court, or further orders of the Court. Plaintiffs, Settling Defendants and their respective counsel, and all other Released Defendant Persons, shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund; the Plan of Allocation; the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator; the payment or withholding of Taxes; or any losses incurred in connection therewith.

62. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Settlement Class Member or claimant.

63. Each claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim Form.

WHAT PAYMENT ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS SEEKING? HOW WILL THE LAWYERS BE PAID?

64. Plaintiffs' Counsel have not received any payment for their services in pursuing claims against the Settling Defendants on behalf of the Settlement Class, nor have Plaintiffs' Counsel been reimbursed for their out-of-pocket expenses. Before final approval of the Settlement, Lead Counsel will apply to the Court for an award of attorneys' fees for all Plaintiffs' Counsel in an amount not to exceed 33% of the Settlement Fund. At the same time, Lead Counsel also intends to apply for reimbursement of Litigation Expenses in an amount not to exceed \$85,000, and an "award of reasonable costs and expenses" to Plaintiffs not to exceed \$5,000 individually or \$12,500 total. The Court will determine the amount of any award of attorneys' fees or reimbursement of Litigation Expenses as well as any reasonable costs and expenses to Plaintiffs. Such sums as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

WHAT IF I DO NOT WANT TO BE A MEMBER OF THE SETTLEMENT CLASS? HOW DO I EXCLUDE MYSELF?

65. Each Settlement Class Member will be bound by all determinations and judgments in this lawsuit, whether favorable or unfavorable, unless such person or entity mails or delivers a written Request for Exclusion from the Settlement Class, addressed to Bloom Energy Settlement, EXCLUSIONS, c/o Epiq Global, P.O. Box 2230, Portland, OR 97208-2230. The exclusion request must be *received* no later than March 18, 2024. You will not be able to exclude yourself from the Settlement Class after that date. Each Request for Exclusion must: (a) state the name, address and telephone number of the person or entity requesting exclusion, and in the case of entities the name and telephone number of the appropriate contact person; (b) state that such person or entity "requests exclusion from the Settlement Class in *Elissa M. Roberts v. Bloom Energy Corp., et al.*, Case No. 4:19-cv-02935-HSG"; (c) state the number of Bloom common shares that the person or entity requesting exclusion purchased/acquired during the Class Period; and (d) be signed by the person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court.

66. If you do not want to be part of the Settlement Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration, or other proceeding relating to any Released Claim against any of the Released Defendant Persons.

67. If you ask to be excluded from the Settlement Class, you will not be eligible to receive any payment out of the Net Settlement Fund.

68. Bloom has the right to terminate the Settlement if valid requests for exclusion are received from persons and entities entitled to be Settlement Class Members in an amount that exceeds an amount agreed to by Plaintiffs and Bloom.

**WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?
DO I HAVE TO COME TO THE HEARING?
MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT?**

69. **Settlement Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Settlement Class Member does not attend the hearing. You can participate in the Settlement without attending the Settlement Hearing.**

70. The Settlement Hearing will be held on April 18, 2024, at 2:00 p.m., before the Honorable Haywood S. Gilliam, Jr. at the United States District Court for the Northern District of California, United States Courthouse, Courtroom 2, 4th Floor, 1301 Clay Street, Oakland, CA 94612 or via Zoom. The Court reserves the right to approve the Settlement, the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, awards to Plaintiffs and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the Settlement Class Members. The Court reserves the right to hold the Settlement Hearing telephonically or by other virtual means. **Please check the settlement website or the Court's Public Access to Court Electronic Records (PACER) site to confirm that the date has not been changed.**

71. Any Settlement Class Member who or which does not request exclusion may object to the Settlement, the proposed Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, or the award to Plaintiffs. Lead Counsel's motions for i) Final Approval of the Settlement; ii) Attorney's Fees and Reimbursement of Expenses; and iii) Awards to Plaintiffs are due on February 1, 2024. Motions and supporting materials will be posted to www.BloomEnergySettlement.com once filed. Objections must be in writing. You must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the Northern District of California at the address set forth below on or before March 18, 2024. You must also serve the papers on Lead Counsel and on Settling Defendants' Counsel at the addresses set forth below so that the papers are *received on or before* **March 18, 2024**.

Clerk's Office

United States District Court
Northern District of California
Clerk of the Court
United States Courthouse 1301
Clay Street
Oakland, CA 94612

Lead Counsel

Levi & Korsinsky, LLP
Nicholas Porritt, Esq.
1101 Vermont Avenue, NW Suite 700
Washington, DC 20005

Settling Defendants' Counsel

Sidley Austin LLP
Sara B. Brody 555 California Street
Suite 2000
San Francisco, CA 94104

Morgan, Lewis & Bockius LLP
Charlene S. Shimada One Market,
Spear Street Tower
San Francisco, CA 94105

72. Any objection: (a) must state the name, address and telephone number of the person or entity objecting and must be signed by the objector; (b) must contain a statement of the Settlement Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Settlement Class Member wishes to bring to the Court's attention; and (c) must include documents sufficient to prove membership in the Settlement Class, including the number of Bloom common shares that the objecting Settlement Class Member purchased/acquired during the Class Period. You may not object to the Settlement, the Plan of Allocation or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses or Plaintiffs' award if you exclude yourself from the Settlement Class or if you are not a member of the Settlement Class.

73. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

74. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses or Plaintiffs' award, and if you timely file and serve a written objection as described above, you must also file a notice of appearance

with the Clerk's Office and serve it on Lead Counsel and Settling Defendants' Counsel at the addresses set forth above so that it is **received on or before March 18, 2024**. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

75. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Lead Counsel and Settling Defendants' Counsel at the addresses set forth in ¶ 72 above so that the notice is **received on or before March 18, 2024**.

76. The Settlement Hearing may be adjourned by the Court without further written notice to the Settlement Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel.

77. Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, or the award to Plaintiffs. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?

78. If you purchased or otherwise acquired any common shares of Bloom during the Class Period for the beneficial interest of persons or organizations other than yourself, you must either: (a) within seven (7) calendar days of receipt of the Postcard Notice, request from the Claims Administrator sufficient copies of the Postcard Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Postcard Notices forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of the Postcard Notice, provide a list of the names and addresses of all such beneficial owners to Bloom Energy Settlement, c/o Epiq Global, P.O. Box 2230, Portland, OR 97208-2230. If you choose the second option, the Claims Administrator will send a copy of the Postcard Notice to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, up to a maximum of \$0.04 per Postcard Notice actually mailed, plus postage at the pre-sort rate used by the Claims Administrator; \$0.03 per link to the Notice and Claim Form emailed; or \$0.04 per name, address, and email address provided to the Claims Administrator, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Any dispute concerning the reasonableness of reimbursement costs shall be resolved by the Court. Copies of this Notice and the Claim Form may be obtained from the website maintained by the Claims Administrator, www.BloomEnergySettlement.com, or by calling the Claims Administrator toll-free at 1-844-334-1078.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

79. This Notice contains only a summary of the terms of the proposed Settlement. For the precise terms and conditions of the settlement, please see the Stipulation of Settlement available at www.BloomEnergySettlement.com, by contacting Lead Counsel, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. All inquiries concerning this Notice and the Claim Form should be directed to the Claims Administrator or Lead Counsel at:

Bloom Energy Settlement c/o Epiq Global
P.O. Box 2230
Portland, OR 97208-2230
1-844-334-1078
www.BloomEnergySettlement.com

and/or

Nicholas Porritt, Esq.
LEVI & KORSINSKY, LLP
1101 Vermont Avenue, NW Suite 700
Washington, DC 20005
Telephone: (202) 524-4290
Email: nporritt@zlk.com

DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT, SETTling DEFENDANTS OR THEIR COUNSEL REGARDING THIS NOTICE.

Dated: November 30, 2023

By Order of the Court
United States District Court
Northern District of California

EXHIBIT C

CONFIRMATION OF PUBLICATION

IN THE MATTER OF: *Bloom Energy Settlement*

I, Kathleen Komraus, hereby certify that

(a) I am the Media & Design Manager at Epiq Class Action & Claims Solutions, a noticing administrator, and;

(b) The Notice of which the annexed is a copy was published in the following publications on the following dates:

12.4.2023 – Investor’s Business Weekly

12.4.2023 – PR Newswire

X *Kathleen Komraus*

(Signature)

Media & Design Manager

(Title)

MUTUAL FUND PERFORMANCE

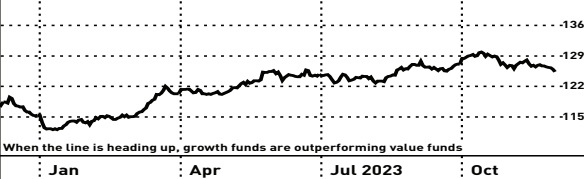
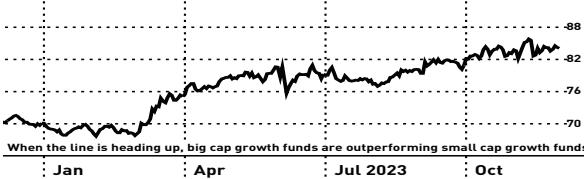
INVESTORS.COM

BIG CAP GROWTH ETF (SPYG) VS SMALL CAP GROWTH ETF (SLYG)			
Apple Inc (AAPL)	12.43%	NeoGenomics Inc (NEO)	1.35%
Microsoft Corp (MSFT)	10.02%	Cleveland-Cliffs Inc (CLF)	1.31%
Amazon.com Inc (AMZN)	8.27%	Yeti Holdings Inc (YETI)	1.16%
Facebook Inc (FB)	3.91%	Omniceil Inc (OMCL)	1.14%
Tesla Inc (TSLA)	3.19%	Brooks Automation (BRKS)	1.13%

GROWTH ETF (IUSG) VS VALUE ETF (IUSV)			
Apple Inc (AAPL)	11.88%	Berkshire Hathaway (BRKB)	2.84%
Microsoft Corp (MSFT)	9.42%	J P Morgan Chase (JPM)	2.43%
Amazon.com Inc (AMZN)	7.78%	Walt Disney Company (DIS)	2.04%
Facebook Inc (FB)	3.68%	Johnson & Johnson (JNJ)	1.56%
Tesla Inc (TSLA)	3.00%	Verizon Communications (VZ)	1.53%

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
D- NY TF Inc	+4 +2	0	9.80	0.03
D- HI Vid	+3 +1	+1	8.54	0.04
Franklin Templeton A				
\$64.3 bil 800-632-2301				
D- Dyna	+38 +2	+7	127.78	-0.18
B- Gro	+21 +1	+7	124.11	0.50
A- Eq Inc	+4 +2	+5	28.58	0.19
A- Float	+13 +2	+1	7.68	0.00
C- LowDurTlRte	+4 +1	0	8.84	-0.01
B Mgd Inc	+3 +0	+2	11.91	0.01
E Ttl Rtn	+2 +1.0		8.10	-0.03
A Ris Dv	+8 +1	+7	88.81	0.70
C- Gr Op	+33 +3	+6	46.35	0.05
D Inc	+5 +1.0		8.11	-0.01
A- Nt Re	+1 +3	+3	28.78	0.18
E S/MC Gr	+18 +1	+5	32.47	0.16

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$23.5 bil 888-843-7824				
A- Intl Value	+15 +2	+4	17.42	0.02
E Schr EM E	+6 +1	+2	15.38	0.05
C- SchrlntStk	+12 +2	+5	16.11	-0.01
A- SchrlSMCO	+7 -1	+5	17.54	0.15



36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$21.0 bil 800-966-4354				
A- Crnst MdCp	+23 +2	+10	20.53	0.13
A- Crnst Val	+1 +0	+5	19.13	0.16
A- Gas Utility	-1 +1	+4	23.79	0.14

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$85.5 bil 800-400-4111				
E Em Mkt Eq	+3 +1	+2	28.90	-0.01
A Equity Idx	+21 +2	+8	68.68	0.28
A Equity Inc	+0 +0	+6	22.16	0.21
A- Gro AdvTg	+34 +2	+11	31.17	0.02

Top Growth Funds

Last 3 months (all total returns)

Mutual Fund	% Change Last 3 Mos	Performance Rating 36 mos	\$ Net Assets
MainStay:Wnslw LCG	+6	A-	1.173 bil
Akre Focus Fund	+6	A-	7.076 bil
Touchstone:Sel Gro	+6	E	600.90 mil
BlackRock:Exchange	+5	A	212.50 mil
PGIM Jenn Focused Gr	+5	D	831.20 mil
TRowePrice Gblbl Tech	+5	E	2.141 bil
Marsico Inv Fd:Gblbl	+5	D+	142.70 mil
TCW:Select Equities	+5	B	441.90 mil
Harbor:Cap Apprec	+5	B-	14.612 bil
J Hancock II:Cap Ap	+5	B-	845.70 mil
PGIM Jenn Growth	+5	B-	1.485 bil
Marsico Inv Fd:Grow	+5	B-	260.50 mil
Fidelity Sel Defense	+5	A	1.34 bil
TRowePrice I LC Cor Gr	+5	C+	2.651 bil
Federated Hrms Kau LC	+4	C	943.60 mil
Amer Cent:Growth	+4	A	7.94 bil
BlackRock:LC Foc Gro	+4	B	789.30 mil
TRowePrice Blue Chp Gro	+4	C+	26.288 bil
J Hancock II:BC Gro	+4	C	1.473 bil
Davenport Equity Opps	+4	A-	695.50 mil
TRowe Price LC Gro	+4	B+	16.692 bil
Alger Inst:Cap App	+4	C	1.016 bil
Baron Fifth Ave Gro	+4	E	332.90 mil
Davenport Core Fund	+4	A	777.00 mil
Alger:Capital Apprec	+4	C	758.70 mil

U.S. Stock Fund Cash Position	High (11/00)	6.2%	Low (12/21)	1.5%	
22-May	2.20%	22-Nov	2.50%	23-May	2.05%
22-Jun	2.40%	22-Dec	2.40%	23-Jun	1.98%
22-Jul	2.40%	23-Jan	2.30%	23-Jul	1.83%
22-Aug	2.50%	23-Feb	2.26%	23-Aug	1.79%
22-Sep	2.50%	23-Mar	2.17%	23-Sep	1.87%
22-Oct	2.50%	23-Apr	2.22%	23-Oct	1.94%

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19
E TR Bd	+2 +0	0	9.28	-0.03

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$17.6 bil 800-341-7400				
C- In HYB	+9 +2	+1	8.58	-0.01
A- MDT AC	+17 +3	+8	36.33	0.19

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Top Growth Funds

Last 3 years (all total returns)

Mutual Fund	% Change YTD	Performance Rating 3 Years	\$ Net Assets
Kinetics:SC Oppty	-15	A+	226.40 mil
Third Avenue:Value	+10	A+	689.20 mil
Hennessy:Crnst MdCp	+23	A+	312.80 mil
Kinetics:Paradigm	-16	A+	375.80 mil
Oberweis:Micro-Cap	+6	A+	215.50 mil
Hotchkis:Sm Cap Val	+8	A+	651.80 mil
Avantis US SCV	+10	A+	418.60 mil
BlackRock:Exchange	+19	A+	212.50 mil
FMI:Common Stock	+16	A+	531.60 mil
Oberweis:Sm-Cap Opp	+8	A+	243.90 mil
Undsc Mgr:Beh Val	+4	A+	2.323 bil
Gotham Indx Plus	+23	A+	450.60 mil
Fidelity Value Strat	+11	A+	577.10 mil
Victory:RS Partners	+8	A+	224.90 mil
Fidelity Sel Cnst&Hous	+17	A+	589.00 mil
AMG RR Mid Cap Val	+14	A+	232.20 mil
Fidelity Value Fund	+9	A+	6.931 bil
Fidelity Adv Val	+9	A+	142.70 mil
Victory:Integrity SCV	+7	A+	700.80 mil
AQR:Div Strat	+9	A+	370.30 mil
GMO:Quality	+26	A+	2.662 bil
Pear Tree:Quality	+25	A+	133.50 mil
Hennessy:Crnst Gro	+10	A+	149.00 mil
Fidelity Mid Cap Value	+12	A+	1.014 bil
Third Avenue:SC Val	+10	A+	170.00 mil

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$852 bil 877-208-0098				
A- Cap Dev	+18 +1	+8	20.45	0.15
A Dvs Stk	+23 +2	+9	31.69	0.09

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$852 bil 877-208-0098				
B- Stk Sel SC	+7 -5	+6	29.85	0.17

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$852 bil 877-208-0098				
A- Tech	+50 +1	+13	93.50	-0.25
A- Util	-4 +1	+3	35.74	0.17

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$852 bil 877-208-0098				
A- Div Gro	+12 +2	+4	18.02	0.10
A- Eq Inc	+6 +0	+4	30.62	0.25

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$852 bil 877-208-0098				
A- FlexIntld	+10 +1	+3	12.33	0.00
E EmergMktsJd	+5 -1	+1	9.94	-0.02

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$852 bil 877-208-0098				
A- Div Gro	+12 +2	+4	18.02	0.10
A- Eq Inc	+6 +0	+4	30.62	0.25

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$852 bil 877-208-0098				
A- FlexIntld	+10 +1	+3	12.33	0.00
E EmergMktsJd	+5 -1	+1	9.94	-0.02

36Mo Performance	YTD 12Wk	5Yr	Net Asset	NAV
Rating	Fund	Chg	[Chg]	[Tax Rtn]
\$852 bil 877-208-0098				
A- Div Gro	+12 +2	+4	18.02	0.10
A- Eq Inc	+6 +0	+4	30.62	0.25

Levi & Korsinsky, LLP Announces Pendency of Class Action Involving Purchasers of Bloom Energy Corporation Common Shares

NEWS PROVIDED BY
Levi & Korsinsky, LLP →
04 Dec, 2023, 08:00 ET

OAKLAND, Calif., Dec. 4, 2023 /PRNewswire/ --

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ELISSA M. ROBERTS, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BLOOM ENERGY CORPORATION, KR
SRIDHAR, RANDY FURR, L. JOHN DOERR,
SCOTT SANDELL, EDDY ZERVIGON, PETER
TETI, MARY K. BUSH, KELLY A. AYOTTE,
J.P. MORGAN SECURITIES LLC, MORGAN
STANLEY & CO. LLC, CREDIT SUISSE
SECURITIES (USA) LLC, KEYBANC CAPITAL
MARKETS INC., MERRILL LYNCH, PIERCE,
FENNER & SMITH INCORPORATED,
ROBERT W. BAIRD & CO., INCORPORATED,
COWEN AND COMPANY, LLC, HSBC
SECURITIES (USA) INC., OPPENHEIMER &
CO. INC., RAYMOND JAMES & ASSOCIATES,
INC., and PRICEWATERHOUSECOOPERS
LLP,

Defendants.

Case No. 4:19-cv-02935-HSG

Honorable Haywood S. Gilliam, Jr.

SUMMARY NOTICE OF (I) PENDENCY OF CLASS ACTION, CERTIFICATION OF SETTLEMENT CLASS, AND PROPOSED SETTLEMENT; (II) SETTLEMENT FAIRNESS HEARING; AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

TO: All persons and entities who purchased or otherwise acquired common shares of Bloom Energy Corporation ("Bloom") from July 25, 2018, to March 31, 2020, inclusive:

PLEASE READ THIS NOTICE CAREFULLY, YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of California, that the above-captioned litigation (the "Action") has been certified as a class action for purposes of the Settlement only on behalf of the Settlement Class, except for certain persons and entities who are excluded from the Settlement Class by definition as set forth in the full Notice of (I) Pendency of Class Action, Certification of Settlement Class, and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice").

YOU ARE ALSO NOTIFIED that Plaintiffs in the Action have reached a proposed settlement of the Action for \$3,000,000 in cash (the "Settlement"), that, if approved, will resolve all claims asserted or that could have been asserted in the Action.

A hearing will be held on April 18, 2024, at 2:00 p.m., before the Honorable Haywood S. Gilliam, Jr. at the United States District Court for the Northern District of California, United States Courthouse, Courtroom 2, 4th Floor, 1301 Clay Street, Oakland, CA 94612 or via Zoom, to determine (i) whether the proposed Settlement should be approved as fair, reasonable, and adequate; (ii) whether the Action should be dismissed with prejudice against Settling Defendants, and the Releases specified and described in the Stipulation and Agreement of Settlement dated June 29, 2023, (and in the Notice) should be granted; (iii) whether the proposed Plan of Allocation should be approved as fair and reasonable; and (iv) whether Lead Counsel's application for an award of attorneys' fees and reimbursement of expenses should be approved. The Court reserves the right to hold the Settlement Hearing telephonically or by other virtual means.

If you are a member of the Settlement Class, your rights will be affected by the pending Action and the Settlement, and you may be entitled to share in the Settlement Fund. The Notice and Proof of Claim and Release Form ("Claim Form"), can be downloaded from the website maintained by the Claims

Administrator, www.BloomEnergySettlement.com. You may also obtain copies of the Notice and Claim Form by contacting the Claims Administrator at *Bloom Energy Settlement*, c/o Epiq Global, PO Box 2230 Portland, OR 97208-2230, 1-844-334-1078.

If you are a member of the Settlement Class, in order to be eligible to receive a payment under the proposed Settlement, you must submit a Claim Form *online or postmarked* no later than **March 29, 2024**. If you are a Settlement Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlement but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If you are a member of the Settlement Class and wish to exclude yourself from the Settlement Class, you must submit a request for exclusion such that it is *received* no later than **March 18, 2024**, in accordance with the instructions set forth in the Notice. If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court in the Action and you will not be eligible to share in the proceeds of the Settlement.

Lead Counsel's motions for i) final approval of the settlement; ii) attorney's fees and reimbursement of expenses; and iii) awards to plaintiffs are due on February 1, 2024. The motions and supporting materials will be posted to www.BloomEnergySettlement.com once filed. Any objections to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's motions for attorneys' fees and reimbursement of expenses and awards to plaintiffs, must be filed with the Court and delivered to Lead Counsel and Settling Defendants' Counsel such that they are *received* no later than **March 18, 2024**, in accordance with the instructions set forth in the Notice.

Please do not contact the Court, the Clerk's office, Settling Defendants, or their counsel regarding this notice. All questions about this notice, the proposed Settlement, or your eligibility to participate in the Settlement should be directed to Lead Counsel or the Claims Administrator.

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel:

LEVI & KORSINSKY, LLP
Nicholas Porritt, Esq.
1101 Vermont Avenue NW, Suite 700
Washington, DC 20005
(202) 542-4290
nporritt@zlk.com

Requests for the Notice and Claim Form should be made to:

Bloom Energy Settlement

c/o Epiq Global
P.O. Box 2230
Portland, OR 97208-2230
844-334-1078
www.BloomEnergySettlement.com

By Order of the Court

URL: www.BloomEnergySettlement.com

SOURCE Levi & Korsinsky, LLP



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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ELISSA M. ROBERTS, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BLOOM ENERGY CORPORATION, KR
SRIDHAR, RANDY FURR, L. JOHN
DOERR, SCOTT SANDELL, EDDY
ZERVIGON, PETER TETI, MARY K. BUSH,
KELLY A. AYOTTE, J.P. MORGAN
SECURITIES LLC, MORGAN STANLEY &
CO. LLC, CREDIT SUISSE SECURITIES
(USA) LLC, KEYBANC CAPITAL
MARKETS INC., MERRILL LYNCH,
PIERCE, FENNER & SMITH IN
CORPORATED, ROBERT W. BAIRD & CO.,
INCORPORATED, COWEN AND
COMPANY, LLC, HSBC SECURITIES (USA)
INC., OPPENHEIMER & CO. INC.,
RAYMOND JAMES & ASSOCIATES, INC.,
and PRICEWATERHOUSECOOPERS LLP,

Defendants.

Case No. 4:19-cv-02935-HSG

**DECLARATION OF
JAMES EVERETT HUNT**

1 I, James Everett Hunt, declare as follows:

2 1. I am one of the plaintiffs in the above-captioned securities class action (the "Action").
3 I submit this declaration in support of: (1) Plaintiffs' Motion for Final Approval of Proposed Class
4 Action Settlement and Plan of Allocation; and (2) Plaintiffs' Counsel's Fee and Expense Application. I
5 have personal knowledge of the statements herein and if called upon as a witness, could and would
6 competently testify thereto.

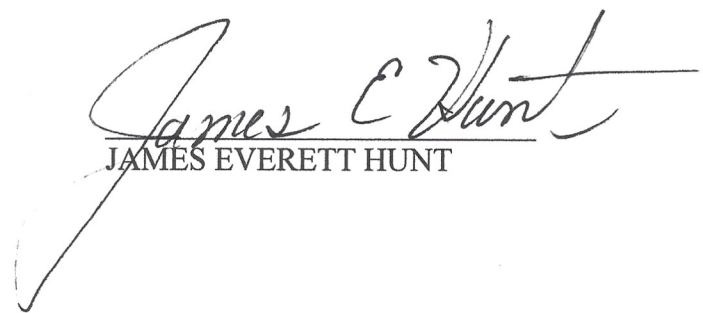
7 2. Based on my involvement in the Action, and when considering the benefits of settling
8 against the risks of continued litigation, I believe the \$3,000,000 proposed Settlement represents an
9 excellent resolution for the Class. It represents a fair, reasonable, and adequate recovery on behalf of
10 the Class, and I believe that final approval of the proposed Settlement is in the best interest of each
11 Settlement Class Member.

12 3. Since moving for lead plaintiff, I have remained engaged and kept up to date with the
13 various proceedings by staying in communication with my attorneys and sitting for a full-day
14 deposition. I have reviewed filings in this action, including the complaints and numerous motions. I
15 have also participated in the litigation by providing documents in my possession, including but not
16 limited to, documents detailing my transactions in Bloom Energy Corporation securities.

17 4. I also note that counsel agreed to represent me and the Class on a fully contingent basis
18 and agreed to advance all litigation costs and expenses. I understand that Plaintiffs' Counsel intends
19 to seek an award of attorneys' fees for all Plaintiffs' Counsel in an amount of 30% of the \$3,000,000
20 Settlement Fund, plus reimbursement of their expenses. I support counsel's fee and expense
21 application based on my experience working with my counsel, my understanding that contingent fees
22 of 30% of the recovery are not unusual, the result achieved, and my understanding that the requested
23 fee will not result in any significant "multiple" on the value of the time they devoted to this case.

24 5. In sum, I respectfully request the Court approve: (1) Plaintiffs' Motion for Final
25 Approval of Proposed Partial Class Action Settlement and Plan of Allocation; and (2) Plaintiffs'
26 Counsel's Fee and Expense Application.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed this 29 th day of January 2024.

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5 JAMES EVERETT HUNT
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Case No. 4:19-cv-02935-HSG

ELISSA M. ROBERTS, Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BLOOM ENERGY CORPORATION, KR
SRIDHAR, RANDY FURR, L. JOHN
DOERR, SCOTT SANDELL, EDDY
ZERVIGON, PETER TETI, MARY K.
BUSH, KELLY A. AYOTTE, J.P.
MORGAN SECURITIES LLC,
MORGAN STANLEY & CO. LLC,
CREDIT SUISSE SECURITIES (USA)
LLC, KEYBANC CAPITAL MARKETS
INC., MERRILL LYNCH, PIERCE,
FENNER & SMITH INCORPORATED,
ROBERT W. BAIRD & CO.,
INCORPORATED, COWEN AND
COMPANY, LLC, HSBC SECURITIES
(USA) INC., OPPENHEIMER & CO.
INC., RAYMOND JAMES &
ASSOCIATES, INC., and
PRICEWATERHOUSECOOPERS LLP,

Defendants.

**[PROPOSED] FINAL JUDGMENT
APPROVING CLASS ACTION
SETTLEMENT**

1 WHEREAS, a consolidated class action is pending in this Court entitled *Elissa M. Roberts*
2 *v. Bloom Energy Corporation. et al.*, Case No. 4:19-cv-02935-HSG (the “Action”);

3 WHEREAS, (a) Plaintiffs James Everett Hunt, Juan Rodriguez, Kurt Voutz, Joel White,
4 Andrew Austin, and Ryan Fishman (collectively, “Plaintiffs”), on behalf of themselves and the
5 Settlement Class (defined below), and (b) Defendants Bloom Energy Corporation (“Bloom”), KR
6 Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush, Kelly
7 A. Ayotte¹, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities
8 (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated,
9 Cowen and Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond
10 James & Associates, Inc., and Robert W. Baird & Co. Incorporated² (collectively, the “Settling
11 Defendants” and together with Plaintiffs, the “Settling Parties”) have entered into a Stipulation and
12 Agreement of Settlement, dated June 30, 2023 (the “Stipulation”), that provides for a complete
13 dismissal with prejudice of the claims asserted against Settling Defendants in the Action on the
14 terms and conditions set forth in the Stipulation, subject to the approval of this Court (the
15 “Settlement”);

16 WHEREAS, unless otherwise defined in this Order, the capitalized terms herein shall have
17 the same meaning as they have in the Stipulation;

18 WHEREAS, by Order, dated October 31, 2023 (the “Preliminary Approval Order”), this
19 Court: (a) preliminarily approved the Settlement; (b) certified the Settlement Class solely for
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24 _____
25 ¹ KR Sridhar, Randy Furr, L. John Doerr, Scott Sandell, Eddy Zervigon, Peter Teti, Mary K. Bush,
and Kelly A. Ayotte are collectively referred to as the “Individual Defendants.”

26 ² J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC,
27 KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen and
28 Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James &
Associates, Inc., and Robert W. Baird & Co. Incorporated are collectively referred to as the
“Underwriter Defendants.”

1 purposes of effectuating the Settlement; (c) ordered that notice of the proposed Settlement be
2 provided to potential Settlement Class Members; (d) provided Settlement Class Members with the
3 opportunity either to exclude themselves from the Settlement Class or to object to the proposed
4 Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

5 WHEREAS, due and adequate notice has been given to the Settlement Class;

6 WHEREAS, the Court conducted a hearing on May 2, 2024 (the “Settlement Hearing”) to
7 consider, among other things, (a) whether the terms and conditions of the Settlement are fair,
8 reasonable and adequate to the Settlement Class, and should therefore be approved; and (b) whether
9 a judgment should be entered dismissing the Action with prejudice as against the Settling
10 Defendants; and

11 WHEREAS, the Court, having reviewed and considered the Stipulation, all papers filed and
12 proceedings held herein in connection with the Settlement, all written comments received regarding
13 the Settlement, and the record in the Action, and good cause appearing therefor;

14 IT IS HEREBY ORDERED:

15 1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and
16 all matters relating to the Settlement, as well as personal jurisdiction for the Action over all of the
17 Settling Parties and each of the Settlement Class Members.

18 2. **Incorporation of Settlement Documents** – This Order incorporates and makes a
19 part hereof: (a) the Stipulation filed with the Court on June 30, 2023; and (b) the Notice, the
20 Summary Notice, Claim Form, and the Postcard Notice, all of which were filed with the Court on
21 June 30, 2023.

22 3. **Class Certification for Settlement Purposes** – The Court hereby affirms its
23 determinations in the Preliminary Approval Order certifying, for the purposes of the Settlement
24 only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil
25

1 Procedure on behalf of the Settlement Class consisting of all persons and entities that purchased or
2 otherwise acquired Bloom Energy Corporation's publicly traded common stock either (i) pursuant
3 and/or traceable to the Registration Statement for Bloom's IPO or (ii) on the open market between July
4 25, 2018 and March 31, 2020, inclusive, and were damaged thereby. Excluded from the Settlement
5 Class are: (i) Settling Defendants' immediate family members; (ii) the officers and directors of Bloom
6 and the Underwriter Defendants, at all relevant times; (iii) the affiliates and subsidiaries of Bloom, at all
7 relevant times; (iv) Bloom's affiliates and employee retirement and/or benefit plan(s) and their
8 participants or beneficiaries to the extent they purchased or acquired Bloom common stock pursuant or
9 traceable to the Registration Statement through any such plan(s); (v) any entity in which Settling
10 Defendants have a controlling interest; and (vi) the legal representatives, heirs, successors, or assigns of
11 any such excluded person or entity. Provided, however, that any "Investment Vehicle" shall not be
12 excluded from the class. "Investment Vehicle" means any investment company, separately managed
13 account, collective investment trust, or pooled investment fund, including, but not limited to, mutual
14 fund families, exchange-traded funds, fund of funds, hedge funds, and retirement accounts and employee
15 benefit plans, in which any Settling Defendant has or may have a direct or indirect interest, or as to
16 which that Settling Defendant or its affiliates may act as an investment advisor or manager, but in which
17 any Settling Defendant alone or together with its, his or her respective affiliates is not a majority owner
18 or does not hold a majority beneficial interest. Also excluded from the Settlement Class are the
19 persons and entities listed on Exhibit 1 hereto who or which are excluded from the Settlement Class
20 pursuant to request.

23 4. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil
24 Procedure, and for the purposes of the Settlement only, the Court hereby affirms its determinations
25 in the Preliminary Approval Order certifying Plaintiffs as Class Representatives for the Settlement
26 Class and appointing Lead Counsel as Class Counsel for the Settlement Class. Plaintiffs and Lead
27 Counsel have fairly and adequately represented the Settlement Class both in terms of litigating the

1 Action and for purposes of entering into and implementing the Settlement and have satisfied the
2 requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

3 5. **Notice** – The Court finds that the dissemination of the Postcard Notice, the online
4 posting of the Notice, and the publication of the Summary Notice: (a) were implemented in
5 accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under
6 the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances,
7 to apprise Settlement Class Members of (i) the pendency of the Action; (ii) the effect of the proposed
8 Settlement (including the Releases to be provided thereunder); (iii) Lead Counsel’s motion for an
9 award of attorneys’ fees and reimbursement of Litigation Expenses, and for Plaintiffs’ award; (iv)
10 their right to object to any aspect of the Settlement, the Plan of Allocation and/or Lead Counsel’s
11 motion for attorneys’ fees and reimbursement of Litigation Expenses and for Plaintiffs’ award; (v)
12 their right to exclude themselves from the Settlement Class; and (vi) their right to appear at the
13 Settlement Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities
14 entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23
15 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process
16 Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and
17 all other applicable law and rules.

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20 6. **CAFA** – The Court finds that the notice requirements set forth in the Class Action
21 Fairness Act of 2005, 28 U.S.C. § 1715, to the extent applicable to the Action, have been satisfied.

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23 7. **Objections** – The Court has considered each of the objections to the Settlement
24 submitted under Rule 23(e)(5) of the Federal Rules of Civil Procedure. The Court finds and
25 concludes that each of the objections is without merit, and they are hereby overruled.

26 8. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in
27 accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby fully and finally
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1 approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the
2 amount of the Settlement; the Releases provided for therein; and the dismissal with prejudice of the
3 claims asserted against Settling Defendants in the Action), and finds that the Settlement is, in all
4 respects, fair, reasonable, and adequate to the Settlement Class. Specifically, the Court finds that
5 (a) Plaintiffs and Lead Counsel have adequately represented the Class; (b) the Settlement was
6 negotiated by the Settling Parties at arm's length; (c) the relief provided for the Class under the
7 Settlement is adequate taking into account the costs, risks, and delay of trial and appeal, the proposed
8 means of distributing the Settlement Fund to the Class, and the proposed attorneys' fee award; and
9 (d) the Settlement treats members of the Class equitably relative to each other. The Settling Parties
10 are directed to implement, perform, and consummate the Settlement in accordance with the terms
11 and provisions contained in the Stipulation.
12

13
14 9. The Action and all of the claims asserted therein, as well as all of the Released
15 Claims, are hereby dismissed with prejudice as to all Settling Defendants and any other Released
16 Defendant Persons. The Settling Parties shall bear their own costs and expenses, except as otherwise
17 expressly provided in the Stipulation.

18 10. **Binding Effect** – The terms of the Stipulation and of this Order shall be forever
19 binding on Settling Defendants, Plaintiffs and all other Settlement Class Members (regardless of
20 whether or not any individual Settlement Class Member submits a Claim Form or seeks or obtains
21 a distribution from the Net Settlement Fund), as well as their respective successors and assigns.
22 [The persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant
23 to request and are not bound by the terms of the Stipulation or this Order.]
24

25 11. **Releases** – The Releases set forth in paragraphs 3.2 and 3.3 of the Stipulation,
26 together with the definitions contained in paragraphs 1.1 to 1.61 of the Stipulation relating thereto,
27 are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date.
28

1 Accordingly, this Court orders that:

2 (a) Without further action by anyone, and subject to paragraph 12 below, upon
3 the Effective Date of the Settlement, Plaintiffs and each of the other Settlement Class Members and
4 Released Plaintiff Persons, on behalf of themselves, and their respective heirs, executors,
5 administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to
6 have, and by operation of law and of this Order shall have, fully, finally and forever compromised,
7 settled, released, resolved, relinquished, waived, and discharged each and every Released Claim
8 against the Settling Defendants and the other Released Defendant Persons, and shall forever be
9 barred, enjoined, and estopped from asserting, commencing, prosecuting, instituting, assisting,
10 instigating, or in any way participating in the commencement or prosecution of any or all of the
11 Released Claims, in any capacity, against any of the Released Defendant Persons.
12

13 (b) Without further action by anyone, and subject to paragraph 12 below, upon
14 the Effective Date of the Settlement, Settling Defendants and their Related Persons, on behalf of
15 themselves, and their respective heirs, executors, administrators, predecessors, successors, and
16 assigns in their capacities as such, shall be deemed to have, and by operation of law and of this
17 Order shall have, fully, finally and forever compromised, settled, released, resolved, relinquished,
18 waived, and discharged each and every Released Defendants' Claim against Plaintiffs and the other
19 Released Plaintiff Persons, and shall forever be barred, enjoined, and estopped from prosecuting
20 any or all of the Released Defendants' Claims against any of the Released Plaintiff Persons. [This
21 Release shall not apply to any person or entity listed on Exhibit 1 hereto.]
22

23
24 12. Notwithstanding paragraphs 11(a) – (b) above, nothing in this Order shall bar any
25 action by any of the Settling Parties to enforce or effectuate the terms of the Stipulation or this Order,
26 or any other written agreement between or among the parties.
27

28 13. **Bar Order** – Upon the Effective Date of the Settlement, the Court hereby

1 permanently bars, enjoins, extinguishes, and discharges to the fullest extent permitted by law: (a)
2 any and all claims for contribution or indemnity (or any other claim or claim-over, however
3 denominated on whatsoever theory, for which the injury claimed is that person's or entity's alleged
4 liability to Plaintiffs or any Settlement Class Member) among or against the Released Defendant
5 Persons arising out of or related to the claims or allegations asserted in the Action, and (b) any other
6 claim of any type, whether arising under statute, federal, common, or foreign law, for which the
7 injury claimed is that person's or entity's actual or threatened liability to Plaintiffs and/or members
8 of the Settlement Class. *Provided, however*, that nothing in this Bar Order shall release or alter the
9 contractual rights, if any, under the terms of any written agreement between or among any of the
10 Released Defendant Persons, including but not limited to any written agreement(s) governing the
11 underwriting syndicates involved in the Action or the Underwriting Agreement, dated July 24, 2018,
12 relating to Bloom's July 2018 IPO.
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15 14. **Judgment Reduction** – Any final verdict or judgment obtained by or on behalf of
16 the Settlement Class or a Settlement Class Member against any person or entity subject to the Bar
17 Order (set forth in paragraph 13, above) shall be reduced by the greater of: (a) an amount that
18 corresponds to the percentage of responsibility of Settling Defendants for common damages; or (b)
19 the amount paid by or on behalf of Settling Defendants to the Settlement Class or Settlement Class
20 Member for common damages.
21

22 15. **Rule 11 Findings** – The Court finds and concludes that the Settling Parties and their
23 respective counsel have complied in all respects with the requirements of Rule 11 of the Federal
24 Rules of Civil Procedure in connection with the institution, prosecution, defense, and settlement of
25 the Action.
26

27 16. **No Admissions** – Neither this Order, the Stipulation (whether or not consummated),
28 including the exhibits thereto and the Plan of Allocation contained therein (or any other plan of

1 allocation that may be approved by the Court), the negotiations leading to the execution of the
2 Stipulation, nor any proceedings taken pursuant to or in connection with the Stipulation and/or
3 approval of the Settlement (including any arguments proffered in connection therewith):
4

5 (a) shall be offered against any of the Released Defendant Persons as evidence
6 of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any
7 of the Released Defendant Persons with respect to the truth of any fact alleged by Plaintiffs or the
8 validity of any claim that was or could have been asserted or the deficiency of any defense that has
9 been or could have been asserted in this Action or in any other litigation, or of any liability,
10 negligence, fault, or other wrongdoing of any kind of any of the Released Defendant Persons or in
11 any way referred to for any other reason as against any of the Released Defendant Persons, in any
12 civil, criminal or administrative action or proceeding, other than such proceedings as may be
13 necessary to effectuate the provisions of the Stipulation;
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15
16 (b) shall be offered against any of the Released Plaintiff Persons, as evidence of,
17 or construed as, or deemed to be evidence of any presumption, concession or admission by any of
18 the Released Plaintiff Persons that any of their claims are without merit, that any of the Released
19 Defendant Persons had meritorious defenses, or that damages recoverable under the Complaint
20 would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault
21 or wrongdoing of any kind, or in any way referred to for any other reason as against any of the
22 Released Plaintiff Persons, in any civil, criminal or administrative action or proceeding, other than
23 such proceedings as may be necessary to effectuate the provisions of the Stipulation; or
24

25 (c) shall be construed against any of the Released Persons as an admission,
26 concession, or presumption that the consideration to be given under the Settlement represents the
27 amount which could be or would have been recovered after trial; provided, however, that the Settling
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1 Parties and the Released Persons and their respective counsel may refer to this Order and the
2 Stipulation to effectuate the protections from liability granted hereunder and thereunder or otherwise
3 to enforce the terms of the Settlement.

4 17. The Released Persons may file the Stipulation and/or this Order in any other action
5 that may be brought against them in order to support a defense or counterclaim based on principles
6 of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar
7 or reduction or any other theory of claim preclusion or issue preclusion or similar defense or
8 counterclaim. The Settling Parties may file the Stipulation and/or this Order in any proceedings that
9 may be necessary to consummate or enforce the Stipulation, the Settlement, or this Order.

11 18. **Retention of Jurisdiction** – Without affecting the finality of this Order in any way,
12 this Court retains continuing and exclusive jurisdiction over: (a) the Settling Parties for purposes of
13 the administration, interpretation, implementation, and enforcement of the Settlement; (b) the
14 disposition of the Settlement Fund; (c) any motion for an award of attorneys’ fees and/or Litigation
15 Expenses by Lead Counsel in the Action that will be paid from the Settlement Fund, and Plaintiffs’
16 award; (d) any motion to approve the Plan of Allocation; (e) any motion to approve the Class
17 Distribution Order; and (f) the Settlement Class Members for all matters relating to the Action.

19 19. Separate orders shall be entered regarding approval of a plan of allocation and the
20 motion of Lead Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses
21 and Plaintiffs’ award. Such orders shall in no way affect or delay the finality of this Order and shall
22 not affect or delay the Effective Date of the Settlement.

24 20. **Modification of the Agreement of Settlement** – Without further approval from the
25 Court, Plaintiffs and Settling Defendants are hereby authorized to agree to and adopt such
26 amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the
27 Settlement that: (a) are not materially inconsistent with this Order; and (b) do not materially limit
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1 the rights of Settlement Class Members in connection with the Settlement. Without further order of
2 the Court, Plaintiffs and Settling Defendants may agree to reasonable extensions of time to carry
3 out any provisions of the Settlement.

4 21. **Termination of Settlement** – If the Settlement is terminated as provided in the
5 Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Order shall be
6 vacated, rendered null and void and be of no further force and effect, except as otherwise provided
7 by the Stipulation, and this Order shall be without prejudice to the rights of Plaintiffs, the other
8 Settlement Class Members and Settling Defendants, and the Settling Parties shall revert to their
9 respective positions in the Action as of June 30, 2023, as provided in the Stipulation.

10 22. **Entry of Final Judgment** – There is no just reason to delay the entry of final
11 judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately
12 enter this final judgment in this Action.
13

14 **SO ORDERED** this _____ day of _____, 2024.
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18 The Honorable Haywood S. Gilliam, Jr.
19 United States District Judge
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Exhibit 1

[List of Persons and Entities Excluded from the Settlement Class Pursuant to Request]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ELISSA M. ROBERTS, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BLOOM ENERGY CORPORATION, KR
SRIDHAR, RANDY FURR, L. JOHN
DOERR, SCOTT SANDELL, EDDY
ZERVIGON, PETER TETI, MARY K. BUSH,
KELLY A. AYOTTE, J.P. MORGAN
SECURITIES LLC, MORGAN STANLEY &
CO. LLC, CREDIT SUISSE SECURITIES
(USA) LLC, KEYBANC CAPITAL
MARKETS INC., MERRILL LYNCH,
PIERCE, FENNER & SMITH IN
CORPORATED, ROBERT W. BAIRD & CO.,
INCORPORATED, COWEN AND
COMPANY, LLC, HSBC SECURITIES (USA)
INC., OPPENHEIMER & CO. INC.,
RAYMOND JAMES & ASSOCIATES, INC.,
and PRICEWATERHOUSECOOPERS LLP,

Defendants.

Case No. 4:19-cv-02935-HSG

**[PROPOSED] JUDGMENT AS TO
DEFENDANT
PRICEWATERHOUSECOOPERS LLP**

Judge Haywood S. Gilliam, Jr.

1 In accordance with this Court's Order dated September 29, 2021, Granting in Part and Denying
2 in Part the Motions to Dismiss, dismissing all claims alleged by Plaintiffs against Defendant
3 PricewaterhouseCoopers LLP ("PwC") (ECF 157), and judgment being entered on all other claims
4 alleged against all other Defendants in this action, the Court hereby directs entry of this final judgment
5 solely as to the claims against Defendant PwC pursuant to Federal Rule of Civil Procedure 54(b).

6
7 IT IS ORDERED, ADJUDGED, AND DECREED that all claims alleged against Defendant PwC are
8 hereby dismissed.

9
10 DATED: _____

11 HONORABLE HAYWOOD S. GILLIAM, JR.
12 UNITED STATES DISTRICT JUDGE

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14 _____
15 Clerk of the Court